Report

of the

Select Committee on Fire Safety

February 2002

Legislative Assembly of Nova Scotia

House of Assembly
Nova Scotia

102-04126/

Mr. Roderick MacArthur
Chief Clerk of the House
House of Assembly
Province House
Halifax, Nova Scotia

Dear Mr. MacArthur,

On behalf of the Select Committee on Fire Safety, in accordance with Resolution 420, I am pleased to submit this report to the House of Assembly.

Respectfully Submitted,

Mr. Jon Carey, MLA
Kings West
Chairman
Select Committee on Fire Safety

Halifax, Nova Scotia
February 2002

Printed on paper that contains recycled fibre

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Introduction

The Select Committee on Fire Safety was appointed in the 2001 spring session of the Legislature to reconsider Bill 58, the Fire Safety Act, which was introduced in the Legislature on June 6, 2000 but died on the order paper.

The committee, chaired by Jon Carey (PC, Kings West), has held public hearings across the province and has also welcomed submissions by post, e-mail and telephone.

The culmination is this report, which will be presented to the Legislature to determine whether Bill 58 should be resubmitted, either as is or in modified form.

Membership of the Select Committee on Fire Safety

Jon Carey, MLA, *chair*
Kings West

Ron Chisholm, MLA
Guysborough-Port Hawkesbury

Kerry Morash, MLA
Queens

Cecil O'Donnell, MLA
Shelburne

Muriel Baillie, MLA
Pictou West

Frank Corbett, MLA
Cape Breton Centre

Graham Steele, MLA
Halifax Fairview

Russell MacKinnon, MLA
Cape Breton West

Brian Boudreau, MLA
Cape Breton The Lakes

Procedures and Operations

The Select Committee on Fire Safety met on the following dates:

Committee Meetings

July 18, 2001
Aug. 22, 2001
Sept. 6, 2001
Sept. 25, 2001
Nov. 1, 2001
Nov. 15, 2001
Nov. 29, 2001
Jan. 10, 2002

Public Hearings

Sept. 25, 2001 -- Mira Road Fire Hall, Sydney
Sept. 26, 2001 -- Port Hawkesbury Fire Hall
Sept. 27, 2001 -- Heather Hotel and Convention Centre, Stellarton
Oct. 2, 2001 -- Salmon River Fire Hall (Truro area)
Oct. 3, 2001 -- Springhill Fire Hall
Oct. 4, 2001 -- Sackville Fire Hall
Oct. 9, 2001 -- Oakhill Fire Hall (Bridgewater area)
Oct. 10, 2001 -- Burridge Campus, Yarmouth
Oct. 11, 2001 -- New Minas Fire Hall
Oct. 16, 2001 -- Lions Centre, Sheet Harbour
Oct. 17, 2001 -- Legislative Committees Office
Oct. 23, 2001 -- Legislative Committees Office

Notices

Notices of committee meetings and public hearings were sent to all members of the committee, staff of the caucus offices, and the legislative staff.

Advertisements for the public hearings were placed in daily and weekly newspapers, selected radio stations and cable television outlets, and journals for firefighters, the construction industry and the insurance industry.

Verbatim Transcripts

Transcripts of the Select Committee meetings are available from the Legislative Committees Office or at the Legislature's home page at the following address:

http://www.gov.ns.ca/legi/hansard/comm/fs/

Research Material

All research for the Select Committee is compiled by the Legislative Committees Office and distributed to committee members and legislative staff.

Report

The Select Committee Report was compiled and written by Tom McDougall. Once the first draft of the report was completed it was sent to the individual Committee members for consideration. The draft review complete, the report is filed with the Clerk of the House.

Distribution of the report will be as follows: to the Speaker, all members of the Legislature, all witnesses who appeared before the Select Committee, the Legislative Library in Nova Scotia and in all other provinces and territories, and the media. This report is also available to the general public upon request through the Legislative Committees Office. The Select Committee report will also be available at the following web-site address:

http://www.gov.ns.ca/legislature/COMMITTEES/fire_safety.html

Acknowledgements

The Select Committee wishes to extend its gratitude to witnesses for their time and co-operation: Kim Sheppard, Committee Liaison; Paul Read and Scott McTavish, Legislative Television and Broadcast Services; Nicole Watkins Campbell, Editor, Communications Nova Scotia; Gordon Johnson, Legislative Counsel; Pat Clahane, Lawyer for the Department of Environment and Labour; the staff of the Legislative Committees Office for the organization and research of committee meetings. Others whose assistance has been invaluable to the Committee are: Robert Kinsman, Editor of Hansard, and Hansard staff; Don Ledger, Co-ordinator, Legislative Television and Broadcast Services, and staff; and Jim Vibert, Executive Director of Communications Nova Scotia, and staff.

What Is Fire Safety?

Fire safety is a multifaceted issue, but the scope of Bill 58, and this committee, covers only part of it. The committee sought and welcomed submissions covering all fire safety issues and will pass them on for future consideration. These submissions also gave the public and the committee an opportunity to gain a grasp on the entire picture.

Bill 58 is about making buildings and other property safe from fire and empowering fire officials to perform their duties. Among many changes, it would:

- Bring Nova Scotia's fire-safety regulations for property up to date by adopting the Canadian National Fire Code as the Nova Scotia Fire Code.
- Ensure every municipality has a fire inspector, who regularly performs inspections.
- Empower fire officials, when life is threatened, to enter buildings, order evacuations and take other actions, backed by the full force of the law.
- Protect fire officials from being sued for decisions they must make on the spur of the moment.
- Make negligent property owners responsible by making them pay for fire-safety services and by subjecting them to legal penalties for violations of the act.
- Enable the fire marshal to assist organizations involved in fire safety.
- Enable the fire marshal to charge fees for services.

Bill 58 is **not** about such issues as standards of training for firefighters or standards for firefighting equipment. Some of these issues are under consideration in the province, but they fall under other jurisdictions, mainly the Occupational Health and Safety Act.

Bill 58 also does not control firefighting procedures or regulate who has authority at the scene of a fire in progress. These questions fall under the Municipal Government. Act. Although Bill 58 does, in Section 13 (1)(h), allow the fire marshal to make certain recommendations pertaining to fire departments and equipment, it is carefully worded to limit the fire marshal's involvement to that of a knowledgeable consultant with no legal power to impose a decision.

Even though these issues lie beyond the scope of the Fire Safety Act, they are important, and many are being discussed in other venues. For instance, a committee of fire chiefs is looking into adopting National Fire Protection Association 1500 standards for volunteer firefighters and firefighting equipment--but only as guidelines to be aimed for, rather than mandatory standards. The committee will refer submissions on these subjects to the appropriate channels. These submissions also served to enlighten the committee on fire issues, particularly the time-consuming, difficult—and sometimes dangerous--services volunteer firefighters perform for their communities, and the difficulties volunteer fire services have in raising money.

Proposed regulations have been drawn up for the Fire Safety Act, but the committee did not make recommendations on them because they are beyond its mandate.

History

The law currently covering fire safety in Nova Scotia is the Fire Prevention Act. It was first enacted in 1919. It hasn't been thoroughly overhauled for over 20 years, though many changes have been occurring in fire safety since then.

For example, Nova Scotia changed its building regulations in 1987, adopting the National Building Code and requiring all municipalities to have building inspectors. Today, all municipalities have building inspectors, as the Building Code Act requires. All municipalities are also required, under the Fire Prevention Act, to have fire inspectors. But the rule has never been enforced, and in reality only about 25 per cent of the 55 municipalities had fire inspectors in 1996. The rest rely on the Fire Marshal's Office to perform inspections, at no cost to the municipality.

In February 1996, the Nova Scotia Fire Prevention Advisory Council, a citizens' group that advises the minister on fire-prevention matters, set up a group of external stakeholders to begin working with the Fire Marshal's Office and counsel delegates to review the Fire Prevention Act.

The advisory council held a series of public hearings across the province to hear opinions, and in August 1997 presented its final report to the Minister of Labour. However, three issues remained unresolved and were left for further discussion. The report on these unresolved issues came out in March 1998.

Bill 58, based on the recommendations of the advisory council's report, was introduced in the House on June 6, 2000. The House adjourned before Bill 58 reached second reading, so it died on the order paper.

But the issue of fire safety remained alive and, on April 11, 2001, Environment and Labour Minister David Morse introduced the resolution establishing the Select Committee on Fire Safety. The House unanimously approved the resolution and the committee began meeting in September. It then held a series of public hearings in Sydney, Stellarton, the Truro area, Springhill, Sackville, the Bridgewater area, Yarmouth, New Minas and Halifax.

This is its final report.

The Need

The regulation of general building-construction safety has changed since the 1980s. In 1987, Nova Scotia enacted a Building Code Act that adopted the National Building Code as its provincewide standard. Today, all municipalities have building inspectors as required in the Building Code Act.

The National Research Council, which wrote the National Building Code, has also written a National Fire Code, designed to harmonize with the building code. One of the main functions of Bill 58 will be to adopt the National Fire Code as the standard for all of Nova Scotia.

Both codes involve the fire safety of buildings. As a general rule, the Building Code covers structural and fire safety during design, construction and renovations. The Fire Code, on the other hand, involves maintenance of fire safety after the building is completed.

The current Fire Prevention Act requires all municipalities to have fire inspectors, just as the Building Code Act requires them to have building inspectors. However, the fire-inspector rule has never been enforced, and only about a quarter of Nova Scotia's 55 municipalities have a fire inspector. The rest have been receiving the service for free from the Office of the Fire Marshal.

A need was seen for having the Office of the Fire Marshal bill for services. New definitions were needed for how often properties must be inspected, and which ones must be inspected by the fire marshal rather than by the local fire inspector.

Fire officials wanted more authority to enforce their orders. To accomplish this, they wanted heavier fines for violations already defined in the current act. They also wanted a new offence to be created for refusing to obey orders such as evacuating buildings.

These changes are the backbone of the Fire Safety Act.

Bill 58's Proposed Changes from the Current Law

The Fire Safety Act would replace the entire Nova Scotia Fire Prevention Act. It is structured differently and is more detailed than the old act. Here are the major changes, in order of their appearance, in Bill 58:

1. Administration

- **Section 12:** The change in name of the act requires a change in name of the committee advising the minister on fire safety. Therefore, the act would establish a Fire Safety Advisory Council to replace the current Fire Prevention Advisory Council.

  A major change, to be made through regulations, would create a subcommittee, the Fire Services Advisory Committee, which would report to the Fire Safety Council on matters related to fire department activities. A problem with the old advisory council has been that its members were forced many times to table issues that were of little or no interest to the majority of council members.

- **Section 13 (8):** The fire marshal could charge a fee for services contracted out.

- **Section 14:** The fire chief would no longer automatically be the local assistant to the fire marshal. The fire marshal could appoint another qualified member--or members--of the fire department.

2. Fire Safety

- **Section 15:** The National Fire Code would be adopted as Nova Scotia's Fire Code.

- **Section 18 (1):** Where required by regulations, owners of some properties would submit building plans for *review*, rather than for *approval*, as in the current act. (For the types of buildings expected to be subject to these regulations, see "Plan Reviews" in Fire Marshal's Comments.)

- **Section 19:** Every municipality would be required to have a system of fire safety inspections and to appoint a fire inspector. This removes the current provision allowing municipalities to delegate the duty to the fire marshal. The bill would further require municipalities to ensure that the fire marshal is informed, in writing, of who the fire inspector is. The municipalities also would have to keep records of fire inspections for five years.

- **Section 20:** Public and private schools, community colleges, universities and power plants must do their own fire safety inspections. The current law makes municipalities responsible for school inspections. Power plants were previously exempt from inspections. Bill 58 removes the exemption, but makes the utilities responsible for the inspections because the complex and specialized generating equipment is beyond the expertise of regular fire inspectors.

- **Sections 25-27:** In cases where there is an immediate threat to life, the bill defines in detail the powers of the fire marshal, fire inspectors and other fire officials to enter buildings, issue fire-safety orders, summon witnesses, enforce compliance, order evacuations and file charges against those who don't comply. The current act makes only short reference to these procedures and states only that the fire marshal has power to order evacuations.

2. Investigation and Reporting

- **Sections 32-35:** The bill specifies, in finer detail than the current act, the duties of the fire marshal's local assistant to investigate and his powers to take actions such as entering property, seizing evidence, summoning witnesses and holding an inquiry.
- **Sections 40-41:** The first level for appeals against Fire Safety Act orders would be the fire marshal; if a solution is not reached it could be further appealed to the Nova Scotia Public Utilities and Review Board. Under the current act, the avenue of appeals is, first, the fire marshal and, second, county court.

3. General

- **Section 44:** The bill specifies a list of eight specific offences, compared to five in the current act. Penalties in the current act all carry a maximum $1,000 fine and/or six months imprisonment. Bill 58 specifies eight offences, with maximum penalties of $25,000 and/or six months, except where human life is lost or the effect on the community is catastrophic. Under these circumstances, penalties would go up to a maximum $150,000 and/or two years.

The Public Hearings

No presenters at the public hearings said they oppose the general concept of the bill, but some opposed the section on municipal housing inspectors.

Universally, fire chiefs and firefighters supported Bill 58 as it stands. Many said six years of discussion are too much, and the bill should be introduced and passed as soon as possible.

Firefighters said they need the measures ensuring that buildings get inspected and those giving fire officials more power to issue and enforce orders.

Fire Chief Fred Fox of Windsor said front-line firefighters are the ones who see the effects of lack of fire inspections. He recounted a recent fire call by his department to a three-storey, four-unit apartment building.

"When we entered the apartment upstairs that occupied the second and third floor, we found a family had been living there for some number of months without electricity," he said. "A Coleman (camping stove) was being used in the kitchen; kerosene lanterns and candles were supplying the light. Children were sleeping on the third floor without the aid of smoke alarms, fire separations or a fire escape. We have no idea how much of this is occurring without a regular system of fire inspections.

"Have you ever seen a mother drop her infant child from a second-floor window to the waiting arms of a firefighter, only to see her have to turn around and make her way back through the smoke because the windows in her apartment do not meet the egress requirements that would have allowed her enough room to also fit through the window?"

Opposition to parts of Bill 58 came chiefly from the Nova Scotia Building Advisory Committee and the building inspectors, and some municipalities were concerned about possible increased costs. Here are brief summaries of the concerns of these groups:

Building Advisory Committee

The Building Advisory Committee is appointed from people in building-related fields across Nova Scotia to advise the Minister on the Building Code and to hear appeals of Building Code orders.

The Building committee agreed strongly that the National Fire Code should be adopted but it questioned the way it will be administered under Bill 58
The committee made four recommendations:

1. The province should adopt the National Fire Code, which will provide a provincial standard to ensure consistent application across Nova Scotia.
2. The province should follow the successful model used for having the municipalities administer the Building Code.

"Much of the confusion and uncertainty surrounding the inspections of buildings is caused by the current model of municipal and provincial fire inspectors administering building regulations in new and existing buildings," Building Advisory Committee member Robert McLaren said at a hearing in Halifax. He said Bill 58 appears to require the municipalities to administer the Fire Code, but a number of sections clearly show the authority is in the hands of the province.

The province's power to amend the Fire Code also could put the code in conflict with the Building Code, he said. Amendments to the Building Code have to be vetted by the Building Advisory Committee and aired for public discussion, but there is no such provision in Bill 58.

3. Both codes should be made applicable to all buildings, regardless of ownership. Provincially owned buildings are exempt from both.

4. Where a fire inspector orders additional design and construction standards or amendments to existing standards that could surpass the Building Code standards, the Fire Safety Act should require that the order be forwarded to the municipal building official for administration and enforcement. Also, now is the time to incorporate into the Building Code all the additional building standards that provincial departments require facilities such as liquor establishments and daycares to meet.

5. The Minister should consider creation of a working committee, at the deputy minister's level, to ensure the successful implementation of the Building Code and Fire Code.

Building Inspectors

The building inspectors, and some municipalities, were concerned that overlapping jurisdictions between housing inspectors and fire inspectors could result in the two issuing conflicting orders, creating confusion, delay and expense for builders.

At the Salmon River hearing, building inspector Mannie Withrow said Bill 58 has not been drafted to support a compatible working relationship between fire inspectors and building inspectors. He said it undermines his role by giving his authority and responsibility to deputy fire officials, and that it will create unnecessary duplication, overlaps in authority and confusion in administration of the Building Code Act.

Mr. Withrow specifically cited Section 13 (4) as the clause that undermines his authority. It gives the fire marshal the authority to enforce this act and all other acts relating to fire.

In Sackville, Jack Leedham, Executive Officer of the Nova Scotia Building Officials Association, said the legislation does not provide a workable administrative framework for the Building and Fire codes. He questioned why, when an order under the Fire Code deals with a Building Code matter, appeals should be heard by two different advisory boards.

The Building Officials Association recommended:

1. Enacting the Fire Code.
2. Removing all references to the Building Code from the Fire Safety Act.
3. Not allowing the Fire Safety Act to enable the fire marshal to amend or establish Building Code regulations.
4. When a fire inspector's order requires new construction or installation of fire equipment regulated under the Building Code, the administration and enforcement must be regulated under the Building Code Act, with input from the fire inspector.

Municipalities

Some municipalities and residents of small communities considered the requirement to hire fire inspectors a downloading of provincial responsibilities to cash-strapped municipalities.

"The added responsibility for municipalities to deliver fire inspection services in the midst of escalating fiscal pressures places the underlying spirit of improving fire safety at risk," said Ian Glasgow, municipal clerk and chief administrative officer of the Municipality of East Hants. "The municipality simply does not have the resources available to effectively deliver these services."

Fire Marshal's Comments

Fire Marshal Robert Cormier attended most of the hearings to answer questions about Bill 58. Here are quotes and paraphrases from some of his comments. :

- **Local assistants not necessarily being fire chiefs:** "What we were trying to do is provide the fire department with an out, so that if the fire chief did not feel they wanted to assume the responsibilities for the investigation of fires and inspection of properties under the emergency section, then they could assign another member of the department who had some qualifications. It was an out for the fire chief who did not feel they were competent to handle that."

- **Fines:** The $250,000 maximum fine came up because of a fire in a plastics factory in Hamilton, in which there was nothing the Ontario government could go back against the directors of the company for.

- **Cost of Bill 58 to Local Fire Services:** "This particular proposed legislation should not increase the cost to the fire service by one red cent. There is nobody anywhere in this province who has created legislation or intends to create legislation that impacts the volunteer fire service."

- **Relationship between building inspectors and fire inspectors:** Before a building is built, a building is mainly the concern of the building inspector. After it is built, it is mainly the concern of the fire inspector. However, there are some fire-safety aspects before construction that are of no concern to the building inspector—such things as the ability of the local fire department and the type of occupants a building will house. The fire inspector is an advisor to the building inspector at that point.

- **Conflict between building and fire inspections:** The solution to animosity is for fire and building inspectors to carry out a joint inspection. "The building inspector then turns it over to the fire inspector, who is responsible for the rest of the life of the building. That way, there is no second-guessing."

- **Cost of a housing inspector:** Wages plus training costs for fire inspectors would work out to about $40,000 to $42,000 per year.

- **The Advisory Council:** The fire marshal, through the Fire Prevention Advisory Council, has been trying over the years to handle fire-department problems in a committee that was never designed for that purpose. The committee consisted of building inspectors, engineers, people from forestry and a number of other areas, and there were only three representatives from the fire service.

- **Cost Recovery:** It was aimed at municipalities that choose not to carry out their responsibility for fire inspections. The fire marshal would do the inspections, then bill the municipality. Also, architects and engineers currently use the fire marshal's staff for advice on how how to build their buildings. "We are not going to do that free of charge any longer. Our job is not to act as consultants."

- **Plan reviews:** The plans the fire marshal will review are for those buildings where the province has a liability or a moral and ethical responsibility—schools, health-care facilities, homes for the aged, government buildings, daycares of a certain size, large public assemblies and industries that are considered a high hazard. Outside of that, the plans will be totally the responsibility of the municipality. The fire marshal's office will still provide assistance where necessary at no charge to the municipality.

- **Volunteer fire departments:** Nova Scotia has 314 fire departments, of which 100 are small volunteer brigades, with 20 members or fewer, "many of which have inadequate equipment, inadequate training and inadequate ability to address the problems that they are supposed to be responsible for." The biggest problem with recruitment is the attraction of young people out of the community to the metro regions. One question is, do we maintain individualized departments in every community or do we begin to band some of our departments together, to try to reinforce their ability to respond to emergencies?

- **Municipalities failing to hire fire inspectors:** "There has been the belief that, because fire chiefs are still listed as part of the inspection process, the municipality is not solely responsible for it. It was not clear. This is what we did under the new act. We made it very clear that the municipality is solely responsible for a system of inspections and they may appoint the local fire department to carry out those inspections as they do in Halifax. But the municipality must take the action. Under the old act, there was some question of clarification on it."

- **Municipal Downloading:** It isn't downloading because the existing legislation already requires municipalities to have fire inspectors, and several municipalities do have them. The law just hasn't been enforced.

In addition, the fire marshal provided the committee with advice and expertise on the current act and advised the committee on issues raised by groups and individuals.

The Committee's Recommendations

(Recommendations are in italics. Explanatory comments are in regular type.)

1. *Bill 58 should be reintroduced in the legislature, with certain amendments, and passed as soon as possible. The committee also encourages the government to table the draft regulations when it introduces the bill.*

   This addresses concerns expressed repeatedly by fire chiefs and firefighters, who argued strongly that the bill is long overdue. (The proposed bill, as printed in the next section, shows the suggested amendments by striking out deleted words and underscoring new words.)

2. *The province should immediately begin enforcing the existing legislation requiring municipalities to have fire inspectors.*

   This addresses the fact that municipalities have been required since 1976 to have fire inspectors, but the province has not enforced it.

3. *Section 20 (2) (e) should be amended to limit the mandatory self-inspections to operations that produce electricity for the purpose of selling it.*

   This recommendation arose to address concerns that the original wording could be interpreted to mean that anyone who uses a generator for personal use would be required to conduct self-inspections the same as full-scale power utilities.

4. *Amendments should be added to Section 20 to:*
   (a) Require the party responsible for self-inspection to
      (i) Immediately provide a copy of the inspection report to the workplace's joint occupational health and safety committee (JOHSC), or the employee health and safety representative under the Occupational Health and Safety Act.
      (ii) In very small workplaces where there is neither a JOHSC nor an employee OHSC representative, post the report conspicuously in an area were it will come to the attention of employees.
      (iii) Provide a copy of the inspection report upon request to (i) a student of the relevant school or university, and (ii) the parent or guardian of such a student.
      (iv) Provide a copy to the property's insurance company.

   (b) Require the minister to approve, and the fire marshal to implement a system of external audits of the Section 20 self-inspections, under which fire officials would do on-site audits to compare self-inspection records to actual conditions at the sites.

These recommendations would increase the accountability of institutions and power utilities that are required to periodically self-inspect their properties for fire safety.

5. *Subsection 14(1) should be amended to make it clear that any appointment of a local assistant to the fire marshal should require the approval of the fire chief, who would have the right of first refusal.*

   This amendment retains Bill 58's intention of allowing someone other than the fire chief to be appointed local assistant to the fire marshal, while also guaranteeing that a fire chief who wants the job cannot be bypassed.

6. *The committee decided to refer personal fire-hazard complaints it received that are not related to Bill 58 to the appropriate authorities.*

This action, which has already been carried out, addresses the several telephone calls, letters and e-mails that involve personal fire-safety complaints unrelated to the scope of Bill 58.

7. *The Nova Scotia government should consider providing financial help to municipalities whose costs might increase as a result of fire safety.*

Nothing in Bill 58 would increase costs to municipalities because municipalities have been legally required since 1976 to have fire inspectors. However, the law has not been enforced, and doing so would result in additional costs to some municipalities.

8. *In the last two lines of Subsection 27(4), the phrase "under the authority of this act" should be replaced with "for the purposes of this act."*

   This addresses concerns of Building Code officials that the section appears to suggest the Fire Safety Act would supersede the Building Code Act in relation to work to be done to implement fire-safety remedial measures for which a building permit is required. The change will not change the legal result, but it might convey that the process is focused on achieving the purpose of protecting people, not administrative interests.

9. *Members of the new Fire Safety Advisory Council should be appointed from the same groups represented on the outgoing Fire Prevention Advisory Council, plus the Union of Nova Scotia Municipalities and the Fire Inspectors Association of Nova Scotia.*

   The Fire Prevention Council includes the fire marshal and representatives of fire officers, firefighters, insurers, building inspectors, building designers, the Department of Natural Resources, and the Department of Housing and Municipal Affairs. The Union of Nova Scotia Municipalities sends an observer. Including both building inspectors and fire inspectors would help resolve the differences of opinion between these two groups.

10. The committee recommends that, wherever possible, municipalities either appoint the same person as fire inspector and building inspector or have the two conduct their inspections jointly, in order to encourage dialogue.

The Committee's Proposed Legislation

(NOTE: Strikethroughs mark words deleted from the old Bill 58. Underscores mark new words.)

An Act to Promote and Encourage Fire Safety

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Fire Safety Act.*

2 The purpose of this Act is to educate and encourage persons and communi-ties to apply the principles of fire safety so as to prevent fires, preserve human life and avoid unwarranted property loss due to the destructive forces of fire.

3 In this Act,

(a) "alteration" means alteration as defined in the regulations made pursuant to the *Building Code Act* and, for greater certainty, includes an addition;

(b) "appoint" means appoint in writing;

(c) "Board" means the Fire Safety Appeal Board referred to in Section 40;

(d) "building" has the same meaning as in the *Building Code Act* and regulations;

(e) "building inspector" means an inspector as defined in the *Building Code Act* for the municipality in which a building is, or is to be, located;

(f) "Council" means the Fire Safety Advisory Council established pursuant to this Act;

(g) "deputy fire marshal" means a person appointed as a deputy fire marshal pursuant to this Act;

(h) "designate" means designate in writing;

(i) "division" means a division of the Board as constituted pursuant to the regulations;

(j) "electrical installation" has the same meaning as in the *Electrical Installation and Inspection Act*;

(k) "fire" includes an explosion;

(l) "fire brigade" means an organization that exists to perform fire suppression and related activities, but does not include a fire department;

(m) "fire chief" means the senior official within, and in charge of, a fire department;

(n) "Fire Code" means the fire code adopted pursuant to this Act;

(o) "fire department" means an organization that provides fire suppres-sion services and

(i) is operated by a municipality,

(ii) is registered by a municipality pursuant to Section 294 of the *Municipal Government Act*, or

(iii) is designated as a fire department by the regulations;

(p) "fire hazard" means a situation, process, material or condition that

(i) on the basis of applicable data, may cause a fire or provide a ready fuel supply to augment the spread, intensity or impact of a fire, and

(ii) poses a threat to property or the health or safety of a person;

(q) "fire official" means, where authorized,

(i) the Fire Marshal,

(ii) a deputy fire marshal,

(iii) a provincial inspector, exercising the power or authority of a deputy fire marshal,

(iv) a local assistant, or

(v) a municipal fire inspector,

as the case may be;

(r) "Fire Marshal" means the person appointed as the Fire Marshal pursuant to this Act;

(s) "fire protection system" means a fire alarm device, fire alarm system or fire extinguishing device or system, or a combination thereof, that is designed and installed for detecting, controlling or extinguishing a fire or alerting occupants, the fire suppression service, or both, that a fire has occurred;

(t) "fire safety" means fire safety as described in Section 16;

(u) "fire suppression" means an organized emergency response for controlling and extinguishing fires;

(v) "former Act" means Chapter 171 of the Revised Statutes, the *Fire Prevention Act*;

(w) "land and premises" or "land or premises" includes a part thereof and buildings, structures and things situated on, or attached to, the land or premises;

(x) "local assistant" means a person who is a local assistant pursuant to this Act;

(y) "Minister" means the Minister of Labour;

(z) "municipal fire inspector" means a person appointed by a municipality as a municipal fire inspector pursuant to this Act;

(aa) "municipality" means a regional municipality, incorporated town or municipality of a county or district;

(ab) "owner" includes

(i) a person controlling land or premises or the activity on the land or premises,

(ii) *prima facie* the assessed owner of land or premises whose name appears on the assessment roll prepared in accordance with the *Assessment Act*, and

(iii) where land or premises are owned or leased by Her Majesty in right of the Province, *prima facie* the Department of Transportation and Public Works;

(ac) "provincial inspector" means a person designated as a provincial inspector pursuant to this Act;

(ad) "qualified" means acceptable to the Fire Marshal.

4 (1) This Act binds Her Majesty in right of the Province.

(2) This Act applies to

(a) every agency of the Government of the Province; and

(b) all matters within the legislative jurisdiction of the Province.

(3) To the extent that Her Majesty in right of Canada submits, this Act binds Her Majesty in right of Canada and every agency of the Government of Canada.

5 (1) Subject to subsection (2), nothing in this Act prevents a municipality from making and enforcing by-laws relating to matters dealt with by this Act, the regulations or the Fire Code, including by-laws that impose or prescribe higher or more stringent standards or requirements than those provided for by this Act, the regulations or the Fire Code.

(2) Where a by-law of a municipality conflicts with this Act, the regula-tions or the Fire Code, this Act, the regulations and the Fire Code prevail to the extent of the conflict.

6 Subject to Section 5, nothing in this Act affects the powers, obligations and duties of persons or bodies

(a) to comply with, carry out or enforce any other law of the Province; or

(b) under any other law of the Province with respect to an investigation or examination into the origin, cause or circumstances of a fire.

7 For greater certainty,

(a) the failure of a fire official to identify or communicate a violation of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce; or

(b) the issuance of a building permit or an occupancy permit pursuant to the *Building Code Act*,

with respect to land or premises, or a part thereof, does not derogate from the application to the land or premises, or part thereof, of this Act, the regulations, the Fire Code, or any other Act or regulations that the Fire Marshal has the power and authority to enforce.

ADMINISTRATION

8 The Minister is responsible for the supervision and management of this Act and the regulations.

9 **(1)** Such persons as are necessary for the administration and enforce-ment of this Act and the regulations shall be appointed in accordance with the *Civil Service Act*, except where this Act provides otherwise.

(2) The Minister shall designate from among those persons appointed pursuant to subsection (1), a Fire Marshal and one or more deputy fire marshals to perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon them by this Act, the regulations and the Fire Code.

(3) The Fire Marshall may delegate any or all of the duties and functions of the Fire Marshall to a deputy fire marshal, including any quasi-judicial function of the Fire Marshal.

(4) The Deputy Minister of Labour may designate one, or more than one, deputy fire marshal to act in the place of the Fire Marshal in the Fire Marshal's absence or incapacity or where the office of the Fire Marshal is vacant.

(5) A deputy fire marshal designated pursuant to subsection (4) shall perform the functions and duties, and has the powers and authorities, of the Fire Marshal, subject to any limitation determined by the Deputy Minister of Labour.

10 **(1)** The Fire Marshal may designate, from among those persons appointed pursuant to subsection 9(1), qualified persons as provincial inspectors who may perform the duties and functions, and exercise the powers and authorities, imposed or conferred upon deputy fire marshals by this Act, the regulations and the Fire Code, subject to any limitations determined by the Fire Marshal.

(2) The Fire Marshal may designate certain provincial inspectors designated pursuant to subsection (1) as inspectors or chief inspectors for the purpose of a regulation made pursuant to this Act.

11 While acting under the authority of this Act and the regulations, the Fire Marshal, deputy fire marshals and provincial inspectors have and may exercise, in any part of the Province, all the powers, authorities and immunities of a peace officer under the *Criminal Code* (Canada).

12 (1) There is hereby established a council to be known as the Fire Safety Advisory Council.

(2) The members of the Council shall be appointed by the Minister, in accordance with the regulations, for such terms as the Minister determines.

(3) The Council may advise the Minister regarding

(a) the administration or reform of this Act, the regulations and the Fire Code;

(b) promotion and support of fire safety, the fire suppression service and fire prevention;

(c) matters arising from the functioning of non-profit organiza-tions with mandates that relate to the purpose of this Act;

(d) any other matter, as determined by the Minister.

(4) The Minister, in consultation with the Council, may

(a) create one or more subcommittees of the Council and appoint the members to the subcommittee; and

(b) determine the mandate of the subcommittee.

(5) For greater certainty, a person who is not a member of the Council may be a member of a subcommittee of the Council.

(6) The members of the Council and any subcommittees shall be reimbursed for such expenses as the Minister determines.

13 (1) The Fire Marshal may

(a) promote, encourage and co-operate with any body or person interested in developing and promoting the principles and practices of fire prevention and the protection of life and property against fire, including promoting, encouraging and delivering public fire safety education programs and training and supporting and assisting others to provide public fire safety education programs and training;

(b) advise persons or organizations interested in developing or promoting the principles and practices of fire suppression, fire prevention, fire safety education, emergency services and related communication systems, and the delivery of those services and systems;

(c) investigate conditions under which fires occur;

(d) require such reports as the Fire Marshal deems necessary from persons authorized or required to inspect, investigate or examine;

(e) maintain in the Fire Marshal's office a statistical record of all fires reported to the Fire Marshal;

(f) collect and disseminate information with respect to fires in the Province;

(g) study methods of fire safety;

(h) make recommendations, including guidelines, respecting

(i) fire suppression, fire prevention, fire protection and the training of persons involved in the provision of these services as well as rescue and emergency services and the delivery of these services and matters related to any of them,

(ii) the establishment of fire departments and fire brigades,

(iii) the provision of adequate water supply, and

(iv) fire-hose couplings and connections for fire-fighting equipment.

(2) The Fire Marshal shall exercise such other powers and perform such duties as are assigned to the Fire Marshal

(a) pursuant to this Act, the regulations or the Fire Code; or

(b) by the Minister.

(3) The Fire Marshal shall submit, annually to the Minister in each year, a detailed report for the twelve months ending on March 31st, in such form as the Minister may prescribe.

(4) The Fire Marshal has the power and authority to enforce compliance with

(a) this Act, the regulations and the Fire Code; and

(b) all other Acts of the Province relating to the prevention and suppression of fires and all regulations and by-laws made thereunder, including any codes and enactments incorporated by reference therein.

(5) With the approval of the Minister, the Fire Marshal, or a person on the staff of the Fire Marshal, may

(a) sit as a member of a board or committee of a non-profit organi-zation with a mandate that relates to the purpose of this Act; and

(b) represent the interests of the office of the Fire Marshal on such a board or committee.

(6) With the approval of the Minister, the Fire Marshal may assist, including providing administrative support for, the work of a non-profit organization with a primary mandate that relates to

(a) fire prevention or fire safety;

(b) critical incident stress debriefing provided to members of fire suppression services and emergency personnel;

(c) training or certification of members of fire suppression services, fire investigators, municipal fire inspectors or local assistants, or accreditation of such training or certification programs; or

(d) any other mandate prescribed by the regulations.

(7) The Fire Marshal may, with the approval of the Minister, contract to provide services to a municipality or other body or person.

(8) The Fire Marshal may charge a fee for the services contracted out pursuant to subsection (7) and the fee is a debt due to Her Majesty in right of the Province and may be recovered in the same manner as any debt due to Her Majesty.

14 (1) The Fire Marshal may appoint as a local assistant to the Fire Marshal a qualified fire chief or, with the consent of the fire chief, another qualified member of the fire chief's fire department.

(2) A fire chief shall notify the Fire Marshal, in writing, of

(a) the fire chief's name, mailing address, telephone number and such other information as the Fire Marshal may request; and

(b) the name and address of the fire department of which the person is the fire chief,

as soon as possible after the person becomes fire chief.

(3) In a municipality or part thereof for which no fire department is established, the mayor or warden, as the case may be, of the municipality is, by virtue of that person's office, deemed to be a local assistant to the Fire Marshal.

(4) Local assistants to the Fire Marshal shall, within their territorial jurisdiction and, subject to the directions of the Fire Marshal, assist in administering this Act, the regulations and the Fire Code.

(5) The Fire Marshal may appoint additional local assistants for a territorial jurisdiction, with or without restrictions, who shall

(a) be qualified persons who

(i) have consented to the appointment, and

(ii) are recommended for the appointment by a local assistant referred to in subsection (1) or (3); and

(b) act on behalf of or, to the extent requested by the Fire Marshal or a local assistant referred to in subsection (1) or (3), assume the responsibility of a local assistant referred to in subsection (1) or (3).

(6) Where a local assistant appointed pursuant to subsection (5)

(a) has been employed by or otherwise associated with a fire department or municipality for the purpose of assuming a role as a local assistant and the employment or association ends;

(b) is, in the opinion of a local assistant referred to in subsection (1) or (3), no longer able to fulfil the role of a local assistant; or

(c) has indicated an intention to resign from the office of local assistant and has not communicated this fact, in writing, to the Fire Marshal,

a local assistant referred to in subsection (1) or (3) for the territorial jurisdiction shall provide the information referred to in clause (a), (b) or (c) to the Fire Marshal, in writing, as soon as practicable.

(7) The Fire Marshal may revoke the appointment of a local assistant appointed pursuant to subsection (1) or (5).

FIRE SAFETY

15 (1) Unless otherwise provided in the regulations, the 1995 edition of the *National Fire Code of Canada* issued by the National Research Council of Canada, as amended from time to time, is adopted as the Fire Code.

(2) Notwithstanding subsection (1), where the regulations so provide,

(a) a later edition of the *National Fire Code of Canada*, published by the National Research Council of Canada;

(b) an edition of another fire code issued by a national or international organization concerned with fire safety or an aspect or it; or

(c) the edition of the fire code adopted in subsection (1),

in whole or in part, with or without such modifications or additions as may be specified in the regulations, as the edition adopted is amended from time to time, may be adopted by regulation as the Fire Code.

(3) Unless otherwise provided in the regulations, a reference in the Fire Code to the National Building Code of Canada, issued by the National Research Council of Canada, shall be read as a reference to the Nova Scotia Building Code adopted pursuant to the *Building Code Act* and regulations.

16 Fire safety is achieved when the circumstances at land or premises are such that, through a combination of

(a) compliance with enactments having an impact on the protection of persons and property from the occurrence or consequences of a fire;

(b) behaviour, training and informing of persons in relation to

(i) the prevention of fire, and

(ii) measures to lessen its consequences, including the egress from, or protection of persons at, the land or premises in the event of a fire;

(c) fire protection systems and measures for confining fire and smoke and delaying the progress of a fire;

(d) physical arrangements for egress or a place of safe refuge for persons to use in the event of a fire; and

(e) emergency preparedness,

a well-informed person, taking into account the nature of the occupancy at the land or premises and the capacity of the fire department and available fire suppression services to deal with an emergency, would have reasonable grounds to believe that

(f) a fire that would harm a person or cause unwarranted damage to property is not likely to occur;

(g) where a fire does occur, a person threatened by the fire, including a firefighter, will be able to survive the occurrence without physical harm, unless the person is harmed immediately by the initiation of the fire due to the person's proximity to the point of initiation; and

(h) where a fire does occur, it will not cause unwarranted damage to property.

17 Unless this Act or the regulations otherwise prescribe, every owner of land or premises, or a part thereof, and every person shall take every precaution that is reasonable in the circumstances to achieve fire safety and to carry out the provisions of this Act, the regulations and the Fire Code.

18 (1) Where required by the regulations, before the commencement of construction of a building or alterations or repairs to an existing building, an owner of the building shall submit the plans and specifications to the Fire Marshal for review for the purpose set out in subsection (2).

(2) Unless otherwise prescribed by the regulations, the purpose and scope of a review required pursuant to subsection (1) is to provide the Fire Marshal with an opportunity to advise

(a) an owner; and

(b) a building inspector,

of an apparent contravention of this Act, the regulations or the Fire Code, where the Fire Marshal recognizes in the plans or specifications that there would be a contra-vention if the construction, alterations or repairs were to proceed without a change in the plans or specifications.

19 (1) A municipality shall

(a) establish a system of fire safety inspections of land and premises situate within its jurisdiction, as required by the regulations, to provide for compliance with this Act, the regulations and the Fire Code;

(b) appoint a municipal fire inspector who shall carry out the inspections; and

(c) ensure that the Fire Marshal is notified, in writing, of the appointment of the municipal fire inspector and the revocation of any such appointment.

(2) A municipality that is required to establish and conduct a system of inspections pursuant to subsection (1) shall ensure that

(a) a record is made of every inspection undertaken by the municipality;

(b) the records are made available, on request, to the Fire Marshal or a deputy fire marshal; and

(c) unless otherwise prescribed by the regulations, the records are kept for at least five years.

20 (1) In this Section,

(a) "Nova Scotia Community College" means the Nova Scotia Community College established pursuant to the *Community Colleges Act*, and "Collège de l'Acadie" means the Collège de l'Acadie established pursuant to the *Community Colleges Act*;

(b) "private school", "public school" and "school board" have the same meaning as in the *Education Act*;

(c) "university" means a university described in the regulations.

(2) The following persons or bodies shall establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire prevention measures and ensure compliance with this Act, the regulations and the Fire Code:

(a) a school board, in respect of the premises of the public schools for which it is responsible;

(b) a person who operates a private school, in respect of the premises of the private school;

(c) the Nova Scotia Community College, in respect of the premises of the Nova Scotia Community College and the Collège de l'Acadie, in respect of the premises of the Collège de l'Acadie;

(d) a university, in respect of the premises of the university;

(e) a person who owns, operates, manages or controls a plant or equipment used primarily for the production, transmission, delivery or furnishing of electric power or energy for sale, in respect of the plant or equip-ment; and

(f) where the regulations so prescribe, other persons or bodies, or classes of persons or bodies.

(3) A person who, or body that, is required to establish and conduct a system of inspections pursuant to subsection (2) shall ensure that

(a) a record is made of every inspection undertaken;

(b) the records are immediately

(i) provided to the workplace joint occupational health and safety committee as referred to in the *Occupational Health and Safety Act*,

(ii) provided to a workplace health and safety representative as referred to in the *Occupational Health and Safety Act*, or

(iii) where no committee or representative exists, posted conspicuously in an area where it will come to the attention of the employees, until another such record is posted, and

(iv) in the case of facilities referred to in clauses (2)(a) to (d), provided to a student who attends or is likely to attend the relevant school or university and to the parent or guardian of such a student, and

(v) provided to the insurer of a person or body referred to in subsection (2) in respect of the premises inspected;

(c) the records are made available, on request, to any person who is authorized to conduct an inspection pursuant to this Act; and

(d) unless otherwise prescribed by regulation, the records are kept for at least five years.

(4) The Fire Marshal shall implement a system of on-site inspections by fire officials of the premises referred to in subsection (2) to ensure that the records referred to in subsection (3) reflect the actual conditions at those premises.

21 (1) Where a person or body that is responsible for implementing a system of inspections pursuant to this Act fails to do so, the Fire Marshal may perform the inspections and may recover the expenses reasonably incurred in the performance of the work.

(2) The expenses referred to in subsection (1) are a debt due to Her Majesty in right of the Province and may be recovered in the same manner as any debt due to Her Majesty.

22 With the consent of an owner of land or premises, a member of a fire department authorized by the fire chief may enter upon the land or premises, at a reasonable time, for the purpose of determining whether there is a condition likely to

(a) increase the risk of fire; or

(b) interfere with the escape of the occupants in the event of a fire or other emergency.

23 (1) Subject to subsection (2), for the purpose of assessing fire safety, assessing the adequacy of fire prevention measures or ensuring compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the Fire Marshal, a deputy fire marshal, a local assist-ant or a municipal fire inspector may, without a warrant, at any reasonable time, enter upon and inspect land or premises.

(2) A fire official shall not enter a private dwelling for a purpose specified in subsection (1) without a warrant obtained pursuant to Section 24 unless the consent of an owner is obtained.

(3) On the request of an owner or occupant of land or premises that are entered pursuant to this Section, the fire official shall

(a) give to the owner or occupant the fire official's identity; and

(b) explain the purpose of the entry.

(4) On an entry pursuant to this Section, the fire official may

(a) enter with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the entry;

(b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the entry.

(5) Where the fire official considers it necessary for the purpose of an entry pursuant to this Section, the fire official may, by oral or written order, close the land or premises and prohibit any person from entering or remaining until the purpose of the entry is fulfilled.

(6) The fire official may, to the extent that it is relevant to the purpose of an entry pursuant to this Section,

(a) examine documents or things;

(b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;

(c) collect and remove data or samples;

(d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;

(e) take photographs or make videotapes or other images, electronic or otherwise;

(f) require the production of, or remove, documents or things for examination or copying;

(g) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;

(h) make any reasonable inquiry of a person, either orally or in writing,

or cause any of the above to be done.

(7) Where a fire official acting pursuant to this Section demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.

(8) Anything removed from land or premises by a fire official acting pursuant to this Section

(a) shall, on request, be made available to the person from whom it was removed

(i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and

(ii) at a time and place that are convenient for the person and for the fire official; and

(b) shall, unless it is impossible or unpractical to return it, be returned to the person within a reasonable time unless it

(i) has been lawfully seized and retained for use as evidence in a prosecution, or

(ii) is required for use in an appeal pursuant to this Act or the regulations.

(9) For the purpose of ensuring compliance with this Act, the regula-tions, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may summons to give evidence and administer an oath or affirmation to a person.

(10) While a fire official is acting pursuant to this Section, no person shall

(a) fail to comply with a reasonable request of the fire official;

(b) knowingly make a false or misleading statement to the fire official;

(c) unless permitted by the fire official, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or

(d) obstruct or interfere with the fire official.

24 (1) A justice of the peace may

(a) upon application by the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector; and

(b) without notice to the owner of land or premises,

issue a warrant authorizing the fire official named in the warrant to enter upon the land or premises and exercise any of the powers referred to in Section 23, if the justice of the peace is satisfied on evidence under oath that there are reasonable grounds to believe that the entry is necessary to assess fire safety, assess the adequacy of fire prevention measures or ensure compliance with this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code and

(c) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(d) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 23 with respect to the lands or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers.

(2) A warrant issued pursuant to subsection (1)

(a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) shall state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

(a) call upon a police officer; and

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 23.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsec-tions 23(3), (7), (8) and (10) apply as if the fire official was acting under the authority of Section 23.

25 (1) Where the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector believes that there is a contravention on land or premises of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code, the fire official may issue to an owner of the land or premises an order that

(a) is substantially in the form set out in subsections 26(1) and (2);

(b) may direct the owner to do one or more of the following within the time limit set out in the order:

(i) remedy the contravention, including do anything in relation to the land or premises that the fire official considers necessary to remedy the non-compliance,

(ii) carry out repairs or alterations,

(iii) remove or demolish buildings or things on the land or premises, or parts of the land or premises,

(iv) replace materials used in the construction of buildings or things,

(v) remove any combustible or explosive material or anything that poses a fire hazard or compromises fire safety,

(vi) discontinue the manufacturing, production or fabrication of a material, device or thing that creates or poses an undue risk of fire or explosion,

(vii) discontinue a use or occupancy of the land or premises, or an activity or practice that creates or poses a fire hazard or compromises fire safety,

(viii) repair or replace faulty fire protection systems, or parts thereof, or install fire protection systems, or parts thereof,

(ix) maintain, inspect or obtain certification for a fire protection system, or part thereof,

(x) obtain a report or assessment from a person who possesses the expert or professional knowledge or qualifications specified by the fire official in respect of fire safety,

(xi) prepare, communicate and practise an emergency response plan for the protection of persons in the event of a fire that includes alerting the fire brigade or fire department, as the case may be, orderly evacuation of occupants and protection of those occupants who cannot easily be evacuated,

(xii) do anything respecting arrangements for fire safety, including but not limited to, fire prevention, the containment of a possible fire, egress, the operation of a fire protection system, containment of, and adequate protection from, hazardous materials in the event of a fire, and the behaviour, training and informing of persons in relation to any of these matters,

(xiii) provide information respecting those matters referred to in subclause (xii).

(2) Where a fire official referred to in subsection (1) determines that there is a significant risk that a fire will occur, or a likelihood that a person will be killed or injured if a fire does occur, the fire official, with the approval of the Fire Marshal, and upon such terms and conditions as the Fire Marshal considers proper, may

(a) order that an owner of the land or premises close the land or premises and prevent persons from entering until the corrective actions ordered pursuant to subsection (1) or (3) are completed; or

(b) where the fire official is of the opinion that it is necessary for the immediate protection of persons and property that the lands or premises be closed immediately,

(i) cause the land or premises to be closed immediately,

(ii) cause persons to be removed from the land or premises, and

(iii) order that the land or premises remain closed and be vacated until the corrective actions ordered pursuant to subsec-tion (1) or (3) are completed.

(3) Where a fire official determines, upon an inspection or investigation pursuant to this Act, that an electrical installation at land or premises may pose a risk of fire because of the inadequacy or want of repair of the electrical installation, the fire official may order that

(a) the electrical installation be inspected by an inspector appointed pursuant to the *Electrical Installation and Inspection Act*; and

(b) the costs of the inspection be paid by the owner of the electrical installation,

and the person to whom the order is directed is not in compliance with the order unless any order made pursuant to the *Electrical Installation and Inspection Act* is complied with in addition to the order made pursuant to this Act, the regulations or the Fire Code.

26 **(1)** An order pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii), subsection 25(3) or subsection 30(3) shall

(a) identify the reasons for the order;

(b) explain the action required by the order; and

(c) set out the time within which the person is to comply.

(2) Where an order is made pursuant to subsections 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) by

(a) the Fire Marshal, it shall set out the right to appeal the order to the Fire Safety Appeal Board; or

(b) a deputy fire marshal, a local assistant or a municipal fire inspector, it shall set out the right to appeal the order to the Fire Marshal or to the Board.

(3) A copy of an order

(a) made pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) shall be served on the owner who is named as recipient in the order;

(b) made pursuant to subsection 25(1), clauses 25(2)(a) or subclause 25(2)(b)(iii) shall be served on at least one occupant of each unit intended for separate occupancy; and

(c) may be served on other interested persons at the discretion of the person making the order.

(4) Where a local assistant makes an order, other than an oral order, a copy of the order shall be delivered to the Fire Marshal as soon as possible after the order is made.

(5) Where an order is made requiring the closure of land or premises, a copy of the order shall be posted in a conspicuous place on the land or premises.

(6) Where an order made pursuant to Section 25 concerns a matter that is also regulated under the *Building Code Act* or the Nova Scotia Building Code

Regulations, the fire official making the order shall furnish a copy of the order to the building inspector.

27 (1) No order made pursuant to Section 25 shall require that alterations be made to a building that, at the time an occupancy permit was issued for the building, complied with

(a) the Building Code then established under the *Building Code Act*;

(b) a municipal by-law then in force that adopted an edition of the National Building Code of Canada issued by the National Research Council of Canada; or

(c) where no municipal by-law or *Building Code Act* was then in force, an edition of the National Building Code of Canada issued by the National Research Council of Canada that was current at the time of construction,

and is in compliance with that code, unless the order is necessary to

(d) respond to a requirement of the Fire Code; or

(e) ensure compliance with regulations made pursuant to this or any enactment relating to the retrofitting of existing buildings for fire safety.

(2) Notwithstanding subsection (1), where a building, at the time of its construction or occupancy, was constructed or occupied in violation of a regulation made pursuant to this Act or the former Act, an order may be made pursuant to Section 25 requiring alterations to the building.

(3) Where an order concerning a matter that is also regulated by the *Building Code Act* or the *Nova Scotia Building Code Regulations* is issued pursuant to Section 25, and a building inspector identifies a likelihood that an unsafe condition will result from an alteration or other work for which a building permit is required to implement the order,

(a) the building inspector shall promptly contact the fire official who issued the order and those persons shall consult and review the information supplied by the owner describing the specifics of the construction; and

(b) the building inspector and the fire official shall determine whether the order can be implemented so as to address both the potential unsafe condition and fire safety concerns.

(4) Where

(a) a building inspector and a fire official determine that the order can be implemented so as to address both the potential unsafe condition and fire safety concerns;

(b) upon consultation by a building inspector and a fire official with the Fire Marshal, the Fire Marshal determines that it is in the interest of safety that the order or an amended version of the order be implemented; or

(c) the Board makes or confirms an order respecting an alteration or other work for which a building permit is required under the *Building Code Act*,

a building inspector shall issue a building permit upon payment of the applicable fee under the *Building Code Act* and regulations and the permit shall indicate on its face that it is issued ~~under the authority of this Act~~ for the purpose of this Act and is sufficient to meet the requirement under the *Building Code Act* and regulations that a building permit be obtained.

28 (1) Where the Fire Marshal, a deputy fire marshal, a local assistant or a fire department chief or other fire department officer in charge of directing fire suppression activities has reasonable grounds to believe that a risk of fire poses an immediate threat to the life of a person, the fire official may, without a warrant and at any time, enter upon and inspect land or premises and may

(a) call upon a police officer;

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by this Section.

(2) On an entry pursuant to subsection (1), a fire official may

(a) remove persons from the land or premises;

(b) order orally, or in writing, that no person, other than a person permitted by the fire official making the entry, shall be permitted to be, or be, present on the land or premises identified in the order until the fire official otherwise orders;

(c) post a fire watch;

(d) remove combustible or explosive material or anything that might constitute the source of the immediate threat;

(e) eliminate ignition sources;

(f) install temporary safeguards, including portable fire exting-uishers and smoke alarms;

(g) make minor repairs to existing fire protection systems;

(h) do anything that the fire official reasonably believes is required to remove or reduce the threat to life.

(3) On an entry pursuant to subsection (1),

(a) subsections 23(3), (7), (8) and (10) apply; and

(b) in addition to the powers authorized by this Section, the fire official may exercise the powers contained in subsections 23(4) and (5) and clauses 23(6)(a), (b), (d), (g) and (h), that the official has reasonable grounds to believe are required to remove or reduce the threat to life,

and the provisions of Section 23 referred to in this subsection shall be read as if they referred to an entry or activity under this Section.

(4) A fire official who exercises any of the powers contained in subsec-tion (2) shall promptly thereafter

(a) give notice in documented form to an owner, if the owner's whereabouts in the Province are known; and

(b) post a copy of the notice in a conspicuous place on the land or premises that

(i) describes the location of the land or premises,

(ii) states the reason for the entry, and

(iii) states the things done pursuant to subsection (2) to remove or reduce the threat to life.

29 (1) Where a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 28(1) has reasonable grounds to believe that entry on lands or premises is necessary to determine whether a risk of fire poses an immediate threat to the life of a person, and

(a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 28 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the land or premises and exercise any of the powers authorized by Section 28.

(2) A warrant issued pursuant to subsection (1)

(a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) shall state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

(a) call upon a police officer;

(b) use such force as is necessary,

to make the entry or exercise the powers authorized by Section 28.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsections 28(3) and (4) apply, and those provisions shall be read as if the fire official was acting under the authority of Section 28.

30 (1) Subject to subsection (2), where

(a) an owner fails to comply with an order issued pursuant to Section 25;

(b) the owner is absent from the Province; or

(c) the owner cannot be located,

the Fire Marshal or, subject to subsection (2), a deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out,

(d) an order involving an expenditure not exceeding one thousand dollars;

(e) an order involving an expenditure of such amount greater than one thousand dollars as may be prescribed by the regulations;

(f) where there are no regulations made pursuant to clause (e), an order involving an expenditure of such amount greater than one

thousand dollars as may be approved by the Minister on a case by case basis, and any further order for compliance approved by the Minister; or

(g) where there are regulations made pursuant to clause (e) prescribing an amount greater than one thousand dollars, an order involving an expenditure of such greater amount as may be approved by the Minister on a case-by-case basis, and any further order for compliance approved by the Minister.

(2) A deputy fire marshal, a local assistant or a municipal fire inspector may carry out, or cause to be carried out, an order referred to in subsection (1) with

(a) in the case of a deputy fire marshal or a local assistant, the approval of the Fire Marshal; and

(b) in the case of a municipal fire inspector, the approval of the Fire Marshal and the mayor or warden of, or the chief administrative officer or, where there is no chief administrative officer, the clerk of, the municipality that appointed the municipal fire inspector.

(3) Where a fire official carries out, or causes to be carried out, an order referred to in subsection (1), or work or action pursuant to clause 25(2)(b), subsection 28(2) or subsection 33(3), the fire official may make an order directing the owner to pay the costs of carrying out the order, work or action, within the limits referred to in subsection (1) to the

(a) Minister if the order, work or action was carried out, or caused to be carried out, by the Fire Marshal or a deputy fire marshal; or

(b) municipality within which the land or premises that are the subject of the order, work or action are located if the order, work or action was carried out, or caused to be carried out, by a local assistant or municipal fire inspector,

and the order to pay costs shall include

(c) a description of the things done for which the costs were incurred and a statement of the authority for doing the things;

(d) a detailed account of the costs incurred; and

(e) a direction that the person to whom the order is issued pay the costs to the Minister or the municipality, as the case may be.

(4) Where the costs of carrying out an order, work or action pursuant to subsection (1) or pursuant to clause 25(2)(b), subsection 28(2) or subsection 33(3)

(a) are incurred by a local assistant or municipal fire inspector; and

(b) remain unpaid by the owner after all rights of appeal pursuant to this Act are exhausted,

the local assistant or municipal fire inspector, as the case may be, shall certify to the clerk of the municipality within which the land or premises that are the subject of the order are located, the expenses actually and necessarily incurred to carry out the order, but not exceeding the limits set out in subsection (1), and the clerk shall forth-with pay, from the ordinary revenues of the municipality, the amount so certified to the local assistant or municipal fire inspector, as the case may be.

31 (1) Where an order for payment of costs referred to in subsection 30(3) is not complied with, the Fire Marshal, a deputy fire marshal, a local assistant or a municipal fire inspector, as the case may be, may file a copy of the order with the clerk of the municipality within which the land or premises that are the subject of the order are located and the amount of the costs

(a) is subject to interest, calculated at the rate applicable to overdue municipal rates and taxes, from the date of the original order for payment of costs; and

(b) with any interest, thereupon constitutes a lien on the property that is the subject of the order.

(2) The amount of the costs and any interest is, for the purpose of collection and recovery, a first lien on the property collectable by the municipality as municipal taxes pursuant to the *Municipal Government Act*.

(3) Where an order for payment of costs requires payment to the Minister and the amount of the costs, including interest, is collected pursuant to subsection (2), it shall be remitted to the Minister.

(4) An order for payment of costs may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and shall be enforced in the same manner as a judgment of that Court.

(5) To register an order for payment of costs with the Supreme Court of Nova Scotia, the fire official who made the order may make a certified copy of the order, upon which shall be made the following endorsement, signed by the fire official:

Register the within with the Supreme Court of Nova Scotia.

Dated this . . . . . day of . . . . . , 20.....

. . . . . .
(Name of fire official)

(6) The fire official may forward the certified copy referred to in subsection (5), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, upon receipt, enter it as a record and it shall thereupon be registered with and enforceable in the same manner as a judgment of that Court.

INVESTIGATION AND REPORTING

32 (1) Subject to subsections (4) and (5), the local assistant shall immedi-ately, and in no case later than twenty-four hours following a fire, investigate, or cause to be investigated, the cause, origin and circumstances of every fire by which property has been destroyed or damaged that occurs within the municipality or part thereof for which the person is a local assistant, unless otherwise directed by the Fire Marshal.

(2) Where

(a) there has been a loss of human life; or

(b) the local assistant investigating the fire believes that the fire is incendiary or of suspicious origin,

the local assistant shall notify the police immediately and the Fire Marshal within twenty-four hours following the fire.

(3) Within seven days of completing the investigation of a fire, the local assistant shall furnish to the Fire Marshal, in a form acceptable to the Fire Marshal, a documented statement of the facts relating to the cause, origin and circumstances of the fire and such further information as the Fire Marshal requires.

(4) Where the local assistant

(a) requires the assistance of the Fire Marshal with an investiga-tion of a fire; or

(b) determines that the Fire Marshal should carry out the investi-gation,

the local assistant shall notify the Fire Marshal immediately or in no case later than twenty-four hours following the fire.

(5) Notwithstanding subsection (1), the local assistant is released from the duty to investigate or report pursuant to this Section

(a) when the Fire Marshal or a deputy fire marshal arrives at the scene; or

(b) where an appointment of an additional local assistant for the territorial jurisdiction has been made pursuant to subsection 14(5) and the local assistant referred to in subsection 14(1) or (3), or the Fire Marshal, has requested that person to assume the responsibility of the local assist-ant under this Section with respect to the fire,

unless otherwise directed by the Fire Marshal or deputy fire marshal.

33 (1) Where a fire has occurred upon land or premises, the Fire Marshal, a deputy fire marshal or a local assistant may, at any reasonable time, enter upon, investigate and make an examination of the land or premises or any adjoining or nearby land or premises without a warrant, for the purpose of ascertaining the cause, origin and circumstances of the fire or to provide for fire safety or fire prevention measures.

(2) The fire official referred to in subsection (1) may

(a) enter the land or premises with any equipment, machinery, apparatus, vehicle or material that the fire official considers necessary for the purpose of the investigation;

(b) take anyone who, or thing that, the fire official considers necessary to assist with fulfilling the purpose of the investigation.

(3) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may, by oral or written order, close the land or premises, prohibit any person from entering or remaining until the purpose of the investigation is fulfilled and post a security watch.

(4) The fire official referred to in subsection (1) may, to the extent that it is relevant to the purpose of the investigation,

(a) examine documents or things;

(b) use data storage, information processing or retrieval devices or systems that are normally used on the land or premises being inspected to produce a document in readable form;

(c) collect and remove data or samples;

(d) make an inspection, carry out a study or conduct a test on the land or premises or anything on the land or premises;

(e) take photographs or make videotapes or other images, electronic or otherwise;

(f) remove anything from the land or premises for the purpose of conducting a test;

(g) require the production of, remove from the land or premises, retain, copy or examine anything;

(h) make such excavations on the land or premises as the fire official considers necessary;

(i) require that any machinery, equipment or device be operated, used or set in motion under specified conditions;

(j) make any reasonable inquiry of a person, either orally or in writing,

or cause any of the above to be done.

(5) Where the fire official referred to in subsection (1) demands that a document or thing be produced for inspection, the person with custody of the document or thing shall produce it and, in the case of a document, shall, on request, provide any assistance that is reasonably necessary to interpret the document or to produce it in readable form.

(6) Anything removed from land or premises pursuant to this Section

(a) shall, on request, be made available to the person from whom it was removed

(i) subject to any requirements that might be necessary to protect its integrity as evidence in an appeal or prosecution, and

(ii) at a time and place that are convenient for the person and for the fire official; and

(b) shall, unless it is impossible or impracticable to return it, be returned to the person within a reasonable time unless it

(i) has been lawfully seized and retained for use as evidence in a prosecution, or

(ii) is required for use in an appeal pursuant to this Act or the regulations.

(7) Where the fire official referred to in subsection (1) considers it necessary for the purpose of the investigation, the fire official may summons any person to give evidence and administer an oath or affirmation to that person.

(8) While a fire official is acting pursuant to this Section, no person shall

(a) fail to comply with a reasonable request of the fire official;

(b) knowingly make a false or misleading statement to the fire official;

(c) unless the fire official permits, remove, alter or interfere in any way with anything seized, detained or removed by the fire official; or

(d) obstruct or interfere with the fire official.

34 (1) Where a fire has occurred at land or premises and a justice of the peace is satisfied by evidence upon oath that a fire official described in subsection 33(1) has reasonable grounds to believe that entry on lands or premises is necessary to ascertain

the cause, origin and circumstances of the fire or to provide for fire safety or fire prevention measures, and

(a) the fire official has been denied entry to the land or premises or there are grounds to believe that the fire official will be denied entry to the land or premises; or

(b) the fire official has been obstructed in exercising any of the powers the fire official is authorized to exercise pursuant to Section 33 with respect to the land or premises or there are grounds to believe that the fire official will be obstructed in exercising any of those powers,

the justice of the peace may, without notice to the owner, issue a warrant authorizing the fire official named in the warrant to enter the lands or premises and exercise any of the powers referred to in Section 33.

(2) A warrant issued pursuant to subsection (1)

(a) shall specify the times, which may be at any time during the day or night, during which the warrant may be carried out;

(b) shall state when the warrant expires; and

(c) may be extended as to its expiry date by a justice of the peace for such additional periods as the justice of the peace considers necessary.

(3) A fire official who acts under the authority of a warrant issued pursuant to subsection (1) may

(a) call upon a police officer;

(b) use such force as is necessary,

to make the entry, or exercise the powers, authorized by Section 33.

(4) Where a fire official acts under the authority of a warrant issued pursuant to subsection (1), the obligations and rights of a person described in subsec-tions 33(5), (6) and (8) apply as if the fire official was acting under the authority of Section 33.

35 (1) The Fire Marshal, or a person appointed for the purpose by the Minister, may conduct an inquiry into the cause, origin and circumstances of a fire.

(2) A person conducting an inquiry pursuant to subsection (1)

(a) has all or any of the powers, privileges and immunities conferred on persons appointed as commissioners pursuant to the *Public Inquiries Act*; and

(b) may employ such legal, technical, scientific, clerical or other assistance as the person deems advisable.

(3) A person appointed by the Minister to conduct an inquiry pursuant to subsection (1) shall, as soon as practicable after the completion of the inquiry,

(a) send a report to the Fire Marshal stating the opinion of the person as to the cause and origin of the fire and whether it appears to have been incendiary or of suspicious origin; and

(b) transmit with the opinion the evidence taken at the inquiry.

36 (1) Unless otherwise prescribed by the regulations, every fire insurance company licensed to undertake contracts of insurance in the Province shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regulations, information with respect to every fire occurring in the Province in the previous month and in which the company is interested as insurer.

(2) Unless otherwise prescribed by the regulations, an owner

(a) who sustains a loss by fire upon an uninsured or self-insured property; or

(b) upon whose uninsured or self-insured property a person is killed or injured by fire,

shall, within ten days of the occurrence of the fire and as required by the regulations, send a report to the Fire Marshal.

(3) Unless otherwise prescribed by the regulations, where

(a) an owner sustains or claims to have sustained a loss by fire on property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*; or

(b) a person is killed or injured by fire at a property that is insured wholly or partially with an insurance company that is not licensed or registered pursuant to the *Insurance Act*,

the insured owner shall, within ten days of complete proofs of loss being furnished to the insurance company with which the insurance is placed, send a report to the Fire Marshal, as required by the regulations.

(4) Unless otherwise prescribed by the regulations, a person who is making adjustments of a loss or damage by fire shall, within seven days of the end of every month, send a report to the Fire Marshal showing, as required by the regula-tions, the adjustments made by the person in the previous month.

(5) The report referred to in subsection (4) is in addition to, and not in substitution for, any other report that the company or the person adjusting the claim may be required to make by this Act, the regulations or any other enactment.

(6) Where a person who is making adjustments of a loss or damage by fire is investigating a fire and has information that indicates that the fire is or might be incendiary or of suspicious origin, the person shall immediately report that information to the police.

37 The owner of a sprinkler system or a fixed pipe extinguishing system shall, subject to the regulations, notify the Fire Marshall of the activation of the system within forty-eight hours of the discharge.

APPEALS

38 (1) A person who is affected by an order made by a deputy fire marshal, local assistant or municipal fire inspector pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3) may, within fifteen days after the order is served, appeal the order

(a) to the Fire Marshal, pursuant to Section 39, by submitting a written request to the Fire Marshal for a review of the order; or

(b) to the Board pursuant to Section 41.

(2) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations.

39 (1) An affected person who appeals an order pursuant to clause 38(1)(a) shall immediately serve a copy of the appeal on the fire official who made the order, unless otherwise authorized in writing by the Fire Marshal.

(2) The Fire Marshal is not required to hold a hearing when conducting an appeal pursuant to clause 38(1)(a).

(3) Subject to subsection (4), where the Fire Marshal has been previously involved in the matter that is the subject of an appeal pursuant to clause 38(1)(a), or has conferred with another fire official or other person in respect of the matter, the Fire Marshal is not disqualified from dealing with an appeal pursuant to clause 38(1)(a) provided the involvement or conference is disclosed to the appellant before the Fire Marshal proceeds with the appeal.

(4) Where the Fire Marshal discloses to an appellant a previous involve-ment or conference as described in subsection (3), and the appellant requests, in writing, that the Fire Marshal not decide the appeal, the Fire Marshal shall refuse to decide the appeal and shall refer the matter to the Board for a hearing pursuant to Section 41.

(5) When conducting an appeal pursuant to clause 38(1)(a), the Fire Marshal shall summarily review the information provided by the appellant and, where the Fire Marshal is not then able to determine that the order should be confirmed, may inquire into the matter and may use any information, including information that is gathered or has previously been provided by a deputy fire marshal or other person, that the Fire Marshal deems advisable to assist in determin-ing the appeal.

(6) On an appeal pursuant to clause 38(1)(a), the Fire Marshal may

(a) confirm, vary or revoke the order;

(b) allow additional time for the person to comply with the order and may attach conditions to such compliance;

(c) make any order that the deputy fire marshal, local assistant or municipal fire inspector, as the case may be, could have made; or

(d) refuse to decide the appeal and refer the matter to the Board.

(7) The Fire Marshal

(a) shall notify the affected person who appealed an order pursuant to clause 38(1)(a);

(b) shall notify the fire official who made the order; and

(c) may notify any other persons,

of the decision of the Fire Marshal.

(8) Subject to subsection (9), the submission of a written request to the Fire Marshal for a review of an order pursuant to clause 38(1)(a) acts as a stay of the order until the appeal has been determined, unless the Fire Marshal decides, with or without notice, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on the safety of persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order does not operate as a stay and whether there is a strong *prima facie* case for a successful appeal of the order,

that the appeal of the order does not operate as a stay pending the outcome of the appeal.

(9) Subsection (8) does not apply to the submission of a written request to the Fire Marshal for a review of an order made pursuant to clause 25(2)(a) or subclause 25(2)(b)(iii), and the order appealed remains in effect pending the outcome of the appeal.

40 Except as otherwise provided by the regulations,

(a) the Nova Scotia Utility and Review Board established pursuant to the *Utility and Review Board Act* is the Fire Safety Appeal Board for the purpose of this Act; and

(b) the *Utility and Review Board Act* applies to an appeal pursuant to Section 41.

41 (1) Subject to the regulations, in this Section, "affected person" means a person who is affected by

(a) an order made pursuant to subsection 25(1), clause 25(2)(a), subclause 25(2)(b)(iii) or subsection 30(3); or

(b) a decision made by the Fire Marshal pursuant to subsection 39(6).

(2) An affected person may

(a) appeal the order or decision referred to in subsection (1), in writing, to the Board within fifteen days after the order is served on, or the decision is received by, the affected person; or

(b) proceed with an appeal referred to the Board pursuant to clause 39(6)(d).

(3) Notwithstanding anything in this Act, where the regulations provide for it, matters in addition to those set out in subsection (1) may be the subject of an appeal, and the procedures for the appeal may be established or varied by the regulations.

(4) An affected person who initiates an appeal to the Board shall immediately serve a copy of the appeal on the fire official who made the order or decision unless otherwise authorized in writing by the Chair of the Board.

(5) Subject to subsections (6) and (7), an appeal made pursuant to subsection (2) acts as a stay of the order until the appeal has been determined.

(6) With or without notice, upon application by the fire official who made the order or decision appealed from, the Board may order, after considering

(a) primarily, the degree of fire risk and the potential impact of a fire on persons; and

(b) secondarily, the degree of prejudicial harm to an owner if the appeal of the order or decision does not operate as a stay and whether there is a strong *prima facie* case for a successful appeal of the order or decision,

that the appeal of the order or decision does not operate as a stay pending the outcome of the appeal.

(7) Subsections (5) and (6) do not apply to an appeal of an order made pursuant to clause 25(2)(a) or subclause 25(2)(b)(iii) and the order remains in effect pending the outcome of the appeal.

(8) On an appeal made pursuant to subsection (2), the Board may

(a) confirm, vary or revoke the order or decision appealed;

(b) allow additional time for the person to whom the order is directed, or who is the subject of the decision, to comply with the order or decision, and may attach conditions to such compliance; or

(c) make any order or decision that the fire official making the original order or decision could have made.

(9) An order of the Board may, for the purpose of enforcement of the order, be registered with the Supreme Court of Nova Scotia and shall be enforced in the same manner as a judgment of that Court.

(10) To register an order of the Board with the Supreme Court of Nova Scotia, the Chair of the Board may make a certified copy of the order or decision, upon which shall be made the following endorsement, signed by the Chair of the Board:

Register the within with the Supreme Court of Nova Scotia.

Dated this . . . . . day of . . . . . , 20.....

. . . . . .
Chair of the Board

(11) The Chair of the Board may forward the certified copy referred to in subsection (10), so endorsed, to a prothonotary of the Supreme Court of Nova Scotia who shall, on receipt of the certified copy, enter it as a record and it shall thereupon be registered with and enforceable in the same manner as a judgment of that Court.

42 The Board has exclusive jurisdiction to determine all questions of

(a) law respecting this Act, the regulations and the Fire Code;

(b) fact; and

(c) mixed law and fact,

that arise in any matter before it, and an order or decision of the Board is final and binding and not open to review except for an error of law or jurisdiction.

43 (1) The Fire Marshal has standing as a party in an appeal made pursuant to subsection 41(2) of an order made by another fire official.

(2) The fire official who made the order has standing as a party in an appeal made pursuant to subsection 38(1) or 41(2).

(3) Notwithstanding Section 42 or any other provision of this Act, a decision or order may be rescinded or varied by the Board or the fire official that made the order or decision.

GENERAL

44 (1) Every person who

(a) tampers with a device intended to enable escape by a person from an area in the event of a fire;

(b) enters, attempts to enter or tampers with land or premises that are closed pursuant to an order made by a fire official pursuant to this Act, the regulations or the Fire Code without the approval of a fire official authorized to make the order;

(c) removes a copy of an order or notice posted in accordance with this Act, the regulations or the Fire Code without the approval of the fire official who made or required the posting or the Fire Marshal;

(d) provides a fire official with information on matters relevant to an inspection or investigation that the person knows, or ought reasonably to know, to be false or misleading;

(e) hinders or obstructs a fire official acting pursuant to this Act, the regulations or the Fire Code;

(f) refuses or neglects to attend, be sworn or give evidence before a fire official or inquiry when summoned to do so;

(g) fails to comply with an order made pursuant to this Act, the regulations or the Fire Code; or

(h) otherwise contravenes this Act, the regulations or the Fire Code,

is guilty of an offence.

(2) An individual convicted of an offence pursuant to subsection (1) is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars, or to a term of imprisonment not exceeding six months, or to both, except where the individual knowingly commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the individual is liable, on summary conviction, to a fine not exceeding one hundred and fifty thousand dollars or to a term of imprisonment not exceeding two years, or to both.

(3) In addition to the fine imposed upon an individual pursuant to subsection (2), the court may impose a fine not exceeding five thousand dollars for each additional day during which the offence continues.

(4) A corporation convicted of an offence pursuant to subsection (1) is liable, on summary conviction, to a fine not exceeding fifty thousand dollars, except where the corporation, with the knowledge of an officer, director, manager or agent of the corporation, commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the corporation is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

(5) In addition to the fine imposed upon a corporation pursuant to subsection (4), the court may impose a fine not exceeding ten thousand dollars for each additional day during which the offence continues.

(6) An officer, director, manager or agent of a corporation who directs, authorizes, assents to, acquiesces or participates in the commission of an offence pursuant to this Act is guilty of the offence and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding one year, or to both, except where that person knowingly commits the offence and the offence results in

(a) loss of human life, injury or damage to the health of a person; or

(b) a catastrophic impact on the community,

in which case the offender is liable, on summary conviction, to a fine not exceeding one hundred and fifty thousand dollars or to a term of imprisonment not exceeding two years, or to both.

(7) A conviction for the offence of failing to comply with an order does not relieve the person convicted from complying with the order and the convicting judge may, in addition to a fine imposed, order the person to do any act or work to comply with the order with respect to which the person was convicted, within the time specified in the order.

(8) A person who fails to comply with an order made pursuant to subsection (7) within the time specified by the judge is guilty of an offence and is liable, on summary conviction, in the case of

(a) an individual, to a fine not exceeding five thousand dollars for each day during which the non-compliance continues; or

(b) a corporation, to a fine not exceeding ten thousand dollars for each day during which the non-compliance continues.

(9) The Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector may apply to a judge of the Supreme Court of Nova Scotia for an order enjoining a person from carrying out any activity that is contrary to this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code.

(10) On receipt of an application made pursuant to subsection (9), the judge may make any order, including an order for interim relief, that the judge considers appropriate.

(11) Except as otherwise provided in this Act or the regulations, the penalties collected pursuant to this Act shall be paid to the Minister of Finance for the use of the Province.

45 (1) Where a person is convicted of an offence pursuant to this Act, in addition to any other punishment that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the offender to pay an amount to the Minister of Finance to be held in trust, in accordance with the regulations, for the purpose of public fire safety education to be carried out by non-profit organizations, the fire suppression service, schools or similar educational institutions.

(2) Where the court makes an order directing the offender to pay an amount to the Minister of Finance pursuant to subsection (1), the total of any moneys payable or direct cost incurred by the offender pursuant to subsection (1) and subsection 44(2), (4) or (6), as the case may be, shall not exceed the maximum amount payable pursuant to subsection 44(2), (4) or (6), as the case may be.

(3) Where the court makes an order pursuant to subsection (1), the amount constitutes a debt due to Her Majesty in right of the Province and may be recovered as such in a court of competent jurisdiction.

(4) The Minister, in consultation with the Council, may designate a non-profit organization with a mandate that relates to the purpose of this Act that shall, in accordance with the regulations, direct the disbursement of amounts held in trust pursuant to subsection (1) for the purpose of public fire safety education carried out as provided in subsection (1).

46 No prosecution for an offence pursuant to this Act, the regulations or the Fire Code shall be commenced after two years from the date of the commission of the alleged offence.

47 No action lies or shall be instituted against Her Majesty in right of the Province or an officer or employee of Her Majesty, the Fire Marshal or any person acting under the Fire Marshal's authority, a deputy fire marshal, a provincial inspector, a local assistant or a delegate or a designate of a local assistant, a fire chief, a fire department or an officer, member or employee of a fire department, including a member empowered by that department to direct fire suppression activities, a municipality or an officer or employee of a municipality, a municipal fire inspector, a member of the Council or a member of a committee of the Council, the Board, a division of the Board or a member of the Board, or any person acting under the authority of, or as an agent of, any person or body referred to in this Section, where the person or body is acting pursuant to the authority of this Act, the regulations, the Fire Code or an order made pursuant to this Act, the regulations or the Fire Code for any loss or damage suffered by a person because of an act or omission done in good faith by the person or body

(a) pursuant to, or in the exercise or supposed exercise of, a power conferred by this Act, the regulations or the Fire Code; or

(b) in the carrying out, or supposed carrying out, of a function or duty imposed by this Act, the regulations or the Fire Code.

48 (1) Subject to subsection (3), a document that is served pursuant to this Act, the regulations or the Fire Code shall be served

(a) in the case of an individual,

(i) personally,

(ii) by a form of delivery that allows proof of receipt to the individual's last address known to the person sending the document, or

(iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt; or

(b) in the case of a corporation,

(i) personally on a director, manager or officer of the corpora-tion,

(ii) by a form of delivery that allows proof of receipt to the registered office of the corporation or, where the corporation is an extra-provincial corporation, to the office of its legal counsel in the Province, or

(iii) by electronic transmission, telephone transmission of a facsimile or by some other method that allows proof of receipt.

(2) Notwithstanding subsection (1), where an order is made with respect to land or premises that contain two or more units intended for separate occupancy, the order is deemed to have been served upon the occupants of the land or premises if a copy of the order is posted in a conspicuous place on the land or premises.

(3) Where the owner cannot be found in the Province, service of any document pursuant to this Act, the regulations or the Fire Code may be accomplished by posting a copy of the document in a conspicuous place on the land or premises.

(4) Any document that is served pursuant to this Act, the regulations or the Fire Code by mail, in the absence of evidence to the contrary, is deemed to have been received by the addressee ten days after the day on which it was mailed, unless the person establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy of the document until a later date than the deemed date of receipt.

(5) Service by electronic transmission or by telephone transmission of a facsimile is deemed to have been received the day after it was sent or, if that day was a Saturday or a holiday, on the next day that is not a Saturday or a holiday, unless the person being served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive a copy until a later date than the deemed date of receipt.

49 A copy of a document that purports to be certified by the Fire Marshal, a deputy fire marshal, a provincial inspector, a local assistant or a municipal fire inspector as being a true copy of the original is admissible in evidence.

50 **(1)** For the purpose of this Act and other purposes related to fire safety

(a) every company, whether upon the stock or mutual plan, transacting the business of fire insurance within the Province; and

(b) every person or organization who is a party to, enters or exchanges a reciprocal contract of indemnity or inter-insurance with others through the same legal counsel,

shall pay to the Minister of Finance annually, in addition to taxes and fees now required by law to be paid by the company, such fee as is determined from time to time by the Governor in Council.

(2) The fee referred to in subsection (1) shall be paid on receipts and assessments, less return premiums and cancellations, reckoned on the business as reported to the Minister of Business and Consumer Affairs during the preceding year.

51 (1) The Governor in Council may make regulations

(a) adopting by reference in whole or in part, with or without modifications, as the edition adopted is amended from time to time, and requiring compliance with,

(i) an edition of the *National Fire Code of Canada*, issued by the National Research Council of Canada, or an edition of a fire code issued by a national or international organization concerned with fire safety or an aspect of it,

(ii) a code or standard respecting materials, equipment or appliances used or installed upon land or premises,

(iii) a code or standard relating to an explosive, flammable or combustible liquid, solid or gas or equipment, apparatus or proced-ures related to the use, carriage, storage, handling or disposal of any of them;

(b) exempting, including exemptions that are subject to terms or conditions,

(i) land or premises, or a part thereof,

(ii) a class of land or premises or a part thereof, or

(iii) any person or a class of persons,

from complying with all or part of the Fire Code or any code or standard adopted or incorporated by regulation pursuant to this Act;

(c) exempting, including exemptions that are subject to terms or conditions,

(i) land or premises, or a part thereof,

(ii) a class of land or premises or a part thereof, or

(iii) any person or thing, or class of person or thing,

from all or part of this Act or the regulations;

(d) respecting the approval, sale, installation, permitting, servic-ing, maintenance, testing or repair of fire protection systems, or parts thereof, and lightning rods;

(e) respecting the manufacture, carriage, storage, handling or disposal of any explosive, flammable or combustible solid, liquid or gas or the

carriage, storage, handling or disposal of any gas, whether or not of such a type;

(f) subject to the *Environment Act*, respecting the carriage, storage, handling or disposal of any hazardous material, including gases that are likely to increase the risk of harm to persons in the event of a fire;

(g) respecting the approval, sale, installation, permitting, servic-ing, maintenance, testing or repair of equipment using flammable or combustible liquid or a gas as fuel, or equipment used in the carriage, storage, handling or disposal of any of these;

(h) respecting the approval, sale, installation, permitting, servic-ing, maintenance, testing or repair of solid-fuel burning appliances or related equipment, including fireplaces, stoves, furnaces, ducts, flue pipes and chimneys;

(i) respecting the training or qualifications of persons selling, installing, servicing, maintaining, testing or repairing the products, equipment, apparatus or systems mentioned in clauses (d), (g) and (h), requiring those persons to be licensed, registered or certified in a prescribed manner and providing a system, that may include establishing a board of examination, for the issuance, expiry, suspension and revoca-tion of such licences, registrations or certifications;

(j) requiring persons installing, servicing or testing equipment, apparatus or systems mentioned in clauses (d), (g) and (h) to obtain insurance or performance bonds from a financial institution approved by the Minister in any amount the Minister considers necessary to cover damage that might result from such activities;

(k) respecting the dealing in, possession, disposition or giving of fireworks;

(l) prescribing the

(i) classes of buildings,

(ii) land or premises or classes thereof,

(iii) structures or occupancies or classes thereof,

for which plans and specifications for construction, repairs or alterations or other information, as the case may be, shall be submitted to the Fire Marshal for review, the procedures that shall be undertaken in reviews and the purpose and scope of reviews;

(m) respecting arrangements by owners to ascertain the attain-ment of fire safety

(i) upon land or premises, or

(ii) as reflected in plans and specifications submitted for review by the Fire Marshal,

including a requirement for owners to obtain certificates from independ-ent competent persons evidencing compliance with the requirements of this Act, the regulations and the Fire Code;

(n) respecting fire-hose couplings and connections for fire-fighting equipment and fire protection systems to ensure continued standardiza-tion and compatibility of fire-hose connections to the water supply;

(o) respecting any matter that is regulated pursuant to the *Standard Hose Coupling Act* on the date that Act is repealed;

(p) respecting fire prevention or fire safety upon lands or premises, or any part thereof;

(q) respecting elements of a system of inspection and requiring persons or bodies, or classes thereof, to establish and conduct a system of inspections to provide for fire safety, assess the adequacy of fire prevention measures and ensure compliance with this Act, the regulations and the Fire Code;

(r) changing the period of time for which records of inspections are kept;

(s) respecting the scope, content and record-keeping requirements regarding a system of inspections for which a municipality is responsible, including

(i) the classes of places that require mandatory inspection,

(ii) the minimum frequency for inspections of each class of place,

(iii) the requirement for a municipal council to consider the need for inspection of other classes of places and the adoption and implementation of a policy on inspections for any such classes of places;

(t) respecting the composition, structure, role and functioning of the Council and its subcommittees, if any;

(u) establishing a Fire Safety Appeal Board other than the Nova Scotia Utility and Review Board, constituting the Board into divisions and prescribing the classes of matters to be heard by the divisions of the Board;

(v) where the Board or a division of the Board is established by regulation, prescribing the qualifications for membership on the Board or on a division of the Board and the terms of appointment to the Board;

(w) where the Board or a division of the Board is established by regulation, respecting the quorum of the Board and the powers, privileges and immunities of the Board or a member of the Board;

(x) where the Board or a division of the Board is established by regulation, respecting the appointment by the Governor in Council of the Chair and Vice-chair of the Board and a division of the Board, if any, and respecting the roles of the Chair and Vice-chair;

(y) prescribing non-profit organizations or classes thereof that may be assisted pursuant to this Act;

(z) respecting procedures and affected persons on an appeal to the Fire Marshal or to the Board and prescribing additional matters that may be the subject of an appeal;

(aa) respecting appeals with respect to matters dealt with by the former Act upon the coming into force of this Act;

(ab) respecting the collection or calculation of the fee imposed pursuant to Section 50;

(ac) prescribing that orders involving expenditures of stated amounts greater than one thousand dollars may be carried out or caused to be carried out by a fire official pursuant to this Act, and the amount of such orders;

(ad) prescribing charges to recover the costs of activity contem-plated pursuant to this Act or the regulations or fees in relation to reports, appeals, registrations, certifications, examinations, licences, permits, approvals, inspections, training services, submission of documents or review of documents;

(ae) respecting funds held in trust to be used for public fire safety education carried out pursuant to this Act, including payment, receipt and disbursement of the funds;

(af) respecting reports, including requiring the making of reports, the form and content of reports and procedures regarding reports;

(ag) requiring provision to the Fire Marshal of such information, including statistical information, as the Fire Marshal considers necessary;

(ah) designating as a fire department a fire-suppression organiza-tion other than one operated by or registered by a municipality;

(ai) establishing a committee to determine whether a particular material, component, method of construction or design satisfies a perform-ance requirement of the Fire Code;

(aj) prescribing forms;

(ak) defining any word or expression used but not defined in this Act;

(al) further defining or expanding the meaning of any word or expression defined in this Act;

(am) deemed necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

52 (1) Every licence, permit, registration, certificate, approval, appoint-ment or order given, made or issued pursuant to the former Act, or regulations made pursuant to that Act, that is subsisting and in force on the date this Act comes into force, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations.

(2) Every licence, permit, registration, certificate, approval, appoint-ment or order given, made or issued pursuant to the

(a) *Fireworks Act* or regulations made pursuant to that Act;

(b) *Lightning Rod Act* or regulations made pursuant to that Act; or

(c) *Standard Hose Coupling Act*,

that is subsisting and in force on the date the applicable Act is repealed, is deemed to have been given, made or issued pursuant to this Act, is enforceable as such and continues in force until it has expired or been varied, rescinded, suspended or revoked in accordance with this Act and the regulations.

(3) Where

(a) a right of appeal existed pursuant to the former Act, the appeal period has not expired before this Act comes into force and an appeal has not been initiated pursuant to the former Act on the date this Act comes into force, the appeal provisions in this Act apply and the time for the filing of an appeal shall be measured from the date on which the order or decision was served pursuant to the former Act; or

(b) an appeal has been initiated pursuant to the former Act and has not been completed before the coming into force of this Act, the appeal shall be heard and determined pursuant to the former Act.

(4) The following regulations, and no others, made pursuant to the former Act that are subsisting and in force on the coming into force of this Act shall continue in force until rescinded by the Governor in Council:

(a) *Automatic Sprinkler System Maintenance Regulations*;

(b) *Fees Payable by Companies Transacting Fire Insurance Business*, as established by Order in Council 82-334 and amended by Order in Council 82-699 made by the Governor in Council;

(c) *Property Insurance Fire Prevention Tax Regulation*;

(d) *Fuel Safety Regulations*;

(e) *Portable Fire Extinguisher Control Regulations*.

53 (1) Subsection 6(1) of Chapter 141 of the Revised Statutes, 1989, the *Electrical Installation and Inspection Act*, as amended by Chapter 8 of the Acts of 1992, is further amended by

(a) striking out the period at the end of clause (j) and substituting a semicolon; and

(b) adding the following clause:

(k) providing for procedures for the inspection of an electrical installation or an alteration or addition to an electrical installation.

(2) Subsection 7(2) of Chapter 141 is amended by striking out "duty is imposed upon a public utility to inspect" in the first and second lines and substituting "public utility inspects".

(3) Subsection 8(1) of Chapter 141 is amended by striking out "Every public utility or an inspector shall" in the first line and substituting "A public utility or an inspector may".

(4) Subsection 10(2) of Chapter 141 is repealed and the following subsec-tion substituted:

(2) A public utility or an inspector may inspect the alterations or additions mentioned in subsection (1) during the making and on the completion thereof.

54 Chapter 172 of the Revised Statutes, 1989, the *Fireworks Act*, is repealed.

55 Chapter 257 of the Revised Statutes, 1989, the *Lightning Rod Act*, is repealed.

56 Section 298 of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is repealed.

57 Chapter 439 of the Revised Statutes, 1989, the *Standard Hose Coupling Act*, is repealed.

58 The former Act is repealed.

59 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

APPENDIX 1
Current Legislation

Fire Prevention Act

CHAPTER 171

OF THE

REVISED STATUTES, 1989

Amended 1992, c. 8, s. 29

An Act to Amend and Consolidate the Acts Relating to Fires and Fire Escapes

Short title

1 This Act may be cited as the *Fire Prevention Act*. R.S., c. 171, s. 1.

Interpretation

2 In this Act,

(a) "approved" means approved by the Fire Marshal or of a standard approved by the Fire Marshal;

(b) "assembly building" means a building or portions of buildings used for the congregating of persons for civic, political, social, travel, educational, recreational or like purposes or for the consumption of food or drink;

(c) "building" means any structure used or intended for supporting or sheltering any use or occupancy;

(d) "Deputy Fire Marshal" means the chief fire authority under the Fire Marshal as appointed in accordance with the *Civil Service Act*;

(e) "factories and industrial buildings" means those buildings used for processing, assembling, mixing, storing, packaging, finishing or decorating, repairing or similar operations;

(f) "fire chief" means the chief fire officer of a fire department;

(g) "fire department" means a fire department organized under the *Municipal Act* and equipped with one or more motorized pump-equipped vehicles;

(h) "fire hazard" means a condition that will cause a fire to start or a condition that will increase the extent or severity of the fire;

(i) "Fire Marshal" means the chief fire authority in the Province as appointed in accordance with the *Civil Service Act*;

(j) "institutional building" means a building used for purposes such as medical or care of persons suffering from physical or mental illness, disease or infirmity, for the care of infants, convalescents or aged persons, orphanages, and for penal or corrective purposes which provide sleeping facilities for the occupants;

(k) "limited fire protection unit" means a fire protection unit without motorized pump-equipped vehicles;

(l) "local assistant" means a local assistant to the Fire Marshal in a city, town or municipal district;

(m) "mercantile building" means a building used for the display and sale of merchandise;

(n) "Minister" means the Minister of Labour;

(o) "office building" means a building used for the transaction of business, other than those included within the definition of mercantile building, for keeping accounts and records and similar purposes;

(p) "regulation" means a regulation made under the authority of this Act;

(q) "residential building" means a hotel, motel, lodging house, tourist home, apartment house (other than a dwelling), tenement or any building or part thereof which is rented by the day, week, month or year and consists of individually rented rooms or suites (with or without dining facilities) and selfcontained apartments. R.S., c. 171, s. 2.

Administration of Act

3 (1) The Minister is charged with the administration of this Act and shall exercise the powers and perform the duties imposed on him by this Act.

Regulations

(2) With the approval of the Governor in Council, the Minister may make regulations

(a) for carrying out the purposes of this Act including matters in respect of which no express or only partial provision has been made;

(b) regulating or prohibiting the dealing in, possession, disposing or giving, of any fireworks;

(c) respecting the approval, licensing, sale, installation, maintenance and testing of fire extinguishing equipment, apparatus and supplies and of fire alarm systems;

(d) requiring the installation of a sprinkler system in any building as defined by this Act;

(e) respecting fire prevention and life safety in buildings;

(f) regulating the manufacture, carriage, storage, handling and disposal of explosive or flammable liquids, gases, chemicals and other flammable materials, whether solid, liquid or gas;

(g) relating to the approval and regulating the sale, installation and maintenance of equipment or appliances using flammable liquids or gases as fuel;

(h) defining the business of transacting fire insurance and concerning the reporting, collection and calculation of tax imposed pursuant to Section 27.

Regulations Act

(3) The exercise of the authority set forth in subsection (2) by the Minister and the Governor in Council shall be regulations within the meaning of the *Regulations Act*. R.S., c. 171, s. 3.

Application of Act

4 This Act applies to all persons and matters relating to fire prevention, or precautions, fire suppression and the protection of persons from fire in all buildings, premises or properties in the Province. R.S., c. 171, s. 4.

By-law inconsistent with statute

5 Nothing in this Act prevents a city, town or municipality from making by-laws relating to any matter dealt with in this Act, but any by-law so made shall have effect only to the extent that it is not repugnant to a provision of this Act or the regulations. R.S., c. 171, s.5.

Existing law preserved

6 Nothing in this Act shall be construed as affecting any powers, obligations or duties of any other officials, bodies or persons under any other laws of the Province, in respect of any investigation or examination into the origin, cause or circumstances of any fire and nothing in this Act shall absolve any city, town or municipality from its duty to enforce any law or regulation relating to any matter within the provisions of this Act. R.S., c. 171, s. 6.

Personnel

7 (1) There shall be appointed in accordance with the *Civil Service Act* a Fire Marshal and such deputy fire marshals, inspectors, officers, clerks and other employees as are necessary to carry out the provisions of this Act.

Local assistant to Fire Marshal

(2) The chief of the fire department or limited protection unit of every city, town or municipal district shall be a local assistant to the Fire Marshal.

Municipal official as local assistant

(3) In any town or municipal district in which no fire department or limited fire protection unit is established, the mayor of the town or the councillors for the district and the warden of the municipality of which the district forms part shall be, by virtue of their office, local assistants to the Fire Marshal.

Duties of local assistant

(4) Local assistants to the Fire Marshal shall be subject to the directions of the Fire Marshal and shall assist in carrying out the provisions of the Act and regulations pursuant to this Act within their territorial jurisdiction.

Appointment of local assistant

(5) With the approval of the Minister, the Fire Marshal may appoint any person to be a local assistant to the Fire Marshal for any district in the Province.

Special assistant

(6) With the approval of the Minister, the Fire Marshal may appoint persons to be special assistants to the Fire Marshal, and every such special assistant shall have, throughout the Province, the same authority as a local as- sistant to the Fire Marshal, within his territorial jurisdiction, under subsection (4) of Section 9 and subsection (1) of Section 12. R.S., c. 171, s. 7.

Power and authority of Fire Marshal

8 (1) The Fire Marshal shall have full power and authority to enforce compliance with

(a) this Act and the regulations;

(b) all other Acts of the Province relating to the prevention and suppression of fires and all regulations and by-laws made thereunder;

(c) the *Standard Hose Coupling Act*;

(d) the *Lightning Rod Act*;

(e) the *Fireworks Act*;

(f) the *Electrical Installation and Inspection Act* and regulations;

(g) the *L.P. Gas Installation and Equipment Regulations*.

Report for Fire Marshal

(2) The Fire Marshal may require such reports as he may deem necessary from local assistants or other persons authorized or required to make examinations or inspections.

Duties of Fire Marshal

(3) The Fire Marshal shall

(a) investigate and hold inquiries respecting the cause, origin and circumstances of such fires as he may deem advisable;

(b) maintain in his office a statistical record of all fires reported to him;

(c) from time to time inspect any premises to determine the adequacy of fire alarm systems, fire exits and escapes, precaution against fire and the spread of fire and with a view to directing such alterations or additions to be made or such precautions to be taken or both as he deems necessary for the safeguarding of persons and property;

(d) review plans and specifications for the construction, alteration or repair of structures to ensure that proper precautions are taken against fire and the spread of fire as well as ensuring that the life safety requirements are incorporated in the structure;

(e) submit annually to the Minister on or before the thirtieth day of April in each year a detailed report for the twelve months ending on the thirty-first day of March in such form as the Minister may prescribe;

(f) collect and disseminate information with respect to fires in the Province;

(g) investigate conditions under which fires or explosions occur;

(h) study methods of fire prevention;

(i) perform such other duties as the Minister may direct.

Further duties

(4) The Fire Marshal shall render advice and make recommendations respecting

(a) the establishment of fire departments and fire brigades;

(b) the provision of adequate water supply;

(c) the installation, maintenance, types and adequacy of automatic or other fire alarm systems, fire detection and automatic fire suppression systems;

(d) the construction and maintenance of fire escapes;

(e) electrical installations;

(f) the means and adequacy of alarms in and exit from buildings in the event of a fire;

(g) the storage, use or sale of combustibles, explosives, flammable and explosive liquids or other flammable matter;

(h) lightning rods;

(i) the enactment and enforcement by cities, towns and municipalities of by-laws or ordinances for the prevention of fire and the protection of life and property from fire.

Other law preserved

(5) Nothing herein contained shall affect the obligation or duty of any person to comply with, carry out or enforce any law of the Province or any by-law, regulation or ordinance made thereunder. R.S., c. 171, s. 8.

Investigation by local assistant

9 (1) The local assistant to the Fire Marshal shall investigate or cause to be investigated the cause, origin and circumstances of every fire occurring within the city, town or municipal district for which he is a local assistant and by which property has been destroyed or damaged for the purpose of ascertaining whether the fire was the result of negligence, carelessness, accident or design.

Duty where suspicious circumstances

(2) The investigation shall be begun within three days not including holidays of the occurrence of the fire, and where a fire appears to be of suspicious origin, the local assistant shall notify the Fire Marshal and local police authorities forthwith.

Duty after investigation

(3) The local assistant shall, immediately after the investigation, furnish to the Fire Marshal, on a form to be supplied by the latter, a written statement of the facts relating to the cause, origin and circumstances of the fire and such further information as may be required by the Fire Marshal.

Right of entry

(4) The Fire Marshal and his local assistants and an inspector appointed for the purposes of this Act may at all reasonable times enter in and upon and examine any building or premises where a fire has occurred, and other buildings or premises adjacent thereto. R.S., c. 171, s. 9.

Report by fire insurance company

10 (1) Every licensed fire insurance company shall furnish to the Fire Marshal on forms provided for the purpose, a statement respecting every fire in which it is interested as insurer that occurs in the Province, stating in each case the names and addresses of the owner and occupier of the premises, their location, use and occupancy, the value of the building and contents, the amount of insurance carried, the amount of loss sustained, the probable cause of the fire and the name of the person adjusting the claim and such other information as the Minister may from time to time require.

Preliminary report required

(2) Where a fire appears to be of suspicious origin, a preliminary report shall be made by the company or by the person adjusting the claim against the company as soon as practicable and not later than three days after the occurrence of the fire showing the names of the owner and occupier of the premises burned, their location, use and occupancy, the date of the fire, and such facts and circumstances as shall come to the knowledge of the company or the person adjusting the claim, as the case may be, tending to establish the cause or origin of the fire.

Nature of report

(3) The report referred to in subsection (2) shall be in addition to, and not in lieu of, any other report that the company or the person adjusting the claim may be required to make by this Act or by any other law of the Province. R.S., c. 171, s. 10.

Report by adjuster

11 (1) Every person adjusting a claim against a fire insurance company, whether the company is authorized to carry on business in the Province or not, and whether such person represents the company or the claimant, shall within three days after the completion of the adjustment forward a report in writing to the Fire Marshal.

Contents of report

(2) The report shall state the date of the fire, the names of the owner and occupier of the premises burned, the location of the premises, the value of the property insured, the name of each insurer, the amount of insurance placed with each insurer, the amount of the loss which each insurer is to bear and such other particulars as the Fire Marshal may from time to time require. R.S., c. 171, s. 11.

Inquiry

12 (1) The Fire Marshal, or any person so directed by the Minister, may hold an inquiry into the cause, origin and circumstances of any fire.

Report after inquiry

(2) Every person so directed to hold an inquiry shall, as soon as practicable after the completion of the inquiry, send a report thereof to the Fire Marshal, stating in particular the opinion of such person as to the cause and origin of the fire and whether it appears to have been of incendiary origin and shall transmit therewith the evidence taken by him at the inquiry. R.S., c. 171, s. 12.

Attendance and production compelled

13 (1) The Fire Marshal or any person directed to hold an inquiry may summon witnesses to appear before him, and may require the witnesses to give evidence orally or in writing, upon oath or in the case of persons entitled to affirm in civil matters, upon solemn affirmation, and to produce such documents and things as he may deem requisite to the full investigation of the matter under inquiry, and he shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in a commissioner appointed under the *Public Inquiries Act*.

Persons excluded

(2) The Fire Marshal or such other person may hold such inquiry in private and may exclude therefrom persons not required or permitted by this Act to be present and may keep witnesses separate and apart from each other until they have been examined.

Assistance for inquiry

(3) For the purpose of such inquiry, the Fire Marshal or such other person may employ such legal, technical, scientific, clerical or other assistance as he may deem advisable. R.S., c. 171, s. 13.

Report to Attorney General

14 Where, after any inquiry or other investigation, the Fire Marshal is of the opinion that there is evidence of the crime of arson or the attempt to commit arson, he shall forthwith make a report to the Attorney General and furnish him with such evidence together with the names of witnesses and all other relevant information concerning the fire. R.S., c. 171, s. 14.

Public record

15 (1) The statistical records of fires maintained at the Office of the Fire Marshal shall be open to public inspection.

Inspection of document

(2) The Fire Marshal may allow any person to inspect any documents in his office relating to any fire reported to him and may supply any person with a copy of any such document on payment at the rate of fifteen cents for each folio.

Sums to be remitted

(3) The Fire Marshal shall transmit to the Minister of Finance all sums paid to him pursuant to subsection (2). R.S., c. 171, s. 15.

Right of entry and inspection

16 (1) The Fire Marshal, Deputy Fire Marshal or local assistant, upon receipt of a complaint, or when he deems it necessary without complaint, may at all reasonable hours enter into and upon any building or premises in the Province for the purpose of inspecting same and ascertaining whether or not

(a) in case the building or premises are in a state of disrepair, fire starting therein might spread so rapidly as to endanger other buildings or property;

(b) the building or premises are so used or occupied that fire would endanger life and property;

(c) combustible or explosive material is so kept or such other inflammable conditions exist in or about the building or premises as to endanger life or property;

(d) any special fire hazard exists in or about the building or premises.

Order of Fire Marshal

(2) After an inspection, the Fire Marshal may, in writing, order that, within a reasonable time to be fixed by the order,

(a) in cases under clause (a) of subsection (1), the owner shall remove or destroy the buildings or premises, or the owner or occupier shall repair the building or premises;

(b) in cases under clause (b) of subsection (1), the owner or occupier shall alter the use or occupancy of the building or premises;

(c) in cases under clause (c) of subsection (1), the occupier shall remove or keep secure the combustible or explosive material or remedy the inflammable conditions;

(d) in cases under clause (d) of subsection (1), the owner or occupier shall remove or take proper precautions against the special fire hazard;

(e) in the case of any public or private school, orphanage, nursing home, home for aged or infirm persons, hospital, mental institution, welfare institution, childrens home or other institution for the education or care of children, the person in charge thereof shall adopt and practise a system of fire drills or exercises, to be approved in each case by the Fire Marshal or his local assistant, and designed to aid in the preservation of the lives of the inmates of the institution in the event of fire occurring therein, and shall put the system into effect and compel the inmates and all persons employed in the institution to practise and observe the same, and the owner or occupier or person in charge, as the case may be, shall, after the receipt of the order, comply therewith.

Liability of owner

(3) The cost of complying with any order shall, in the absence of any agreement to the contrary, be borne by the owner, and where by reason of the default of the owner the occupier pays the cost he shall have a right of action or set-off against the owner for all costs actually and necessarily incurred or paid by him in complying with the order.

Smoking prohibited by Fire Marshal

(4) When, in the opinion of the Fire Marshal, the smoking of pipes, cigars or cigarettes in any place, building or premises constitutes a fire hazard that is dangerous to the life or safety of persons, he may order that smoking shall not be permitted in the place, building or premises, or shall be permitted only in such rooms or areas as are designated by the order.

Notice of order

(5) The order under subsections (2) and (4) shall be in writing and shall be served by delivering a copy thereof to the owner or occupier of the place, building or premises to which the order relates, or, if the owner or occupier cannot be found, by posting a copy of the order in a conspicuous position on the place, building or premises.

No smoking sign

(6) When an order has been made under subsection (4), the owner or occupier of the place, building or premises to which the order refers, shall, within one week after service of the order, post notices in conspicuous positions in the area, building or premises bearing the words "No Smoking by Order of the Fire Marshal".

Offence

(7) When notice has been posted pursuant to subsection (6), no person shall smoke in the place, building or premises in which the order is posted, except in such rooms or places as have been designated for the purpose of smoking in the order.

"smoking" defined

(8) In subsections (4) to (7), "smoking" includes carrying or having in possession any lighted smoking material, lighted matches or lighted flame-producing devices. R.S., c. 171, s. 16.

Application of Section 16

16A Notwithstanding anything in this Act, Section 16 does not apply to the facilities of Nova Scotia Power Incorporated used for the generation, transmission and distribution of electricity. 1992, c. 8, s. 29.

Fire Marshal may act

17 (1) Where there is no occupier of any building or premises in respect of which an order is made, and the owner is absent from the Province or his whereabouts within the Province is unknown, the Fire Marshal may himself carry out an order involving an expenditure of not more than one hundred dollars and, with the approval of the Minister, any other order.

Lien

(2) The Fire Marshal shall certify to the treasurer of the city, town or municipality within which the building or premises are situate, the expenses actually and necessarily incurred for the purpose, and such treasurer shall forthwith pay the amount so certified to the Fire Marshal from the ordinary revenue of the city, town or municipality, as the case may be, and such amount shall thereupon for all purposes be held to be rates and taxes for the ordinary lawful purposes of the city, town or municipality, as the case may be, lawfully rated, levied, imposed and assessed on the land on which such building is or was situate, or on such premises, as the case may be, and to be overdue such city, town or municipality, as the case may be, and to be and constitute a lien upon the same all under the provisions of the *Halifax City Charter*, *An Act to Incorporate the City of Sydney*, the *Dartmouth City Charter* or the *Assessment Act*, as the case may be. R.S., c. 171, s. 17.

Powers of local assistant

18 Every local assistant may, within the city, town, municipality or district for which he is local assistant, exercise like powers to those conferred by Sections 16 and 17 upon the Fire Marshal, provided that he will not exercise the powers conferred by Section 17 without the written approval of the Minister. R.S., c. 171, s. 18.

System of inspection

19 (1) It shall be the duty of the council of every city, town and municipality to provide for a regular system of inspection of buildings and premises situate within the city, town or municipality, and every such council may authorize other persons, in addition to the local assistant, to exercise some or all of the powers conferred by Sections 16 and 17 upon the Fire Marshal, such system of inspection shall provide for the inspection at least once in every four months of all hotels, theatres, cinematographs, skating rinks, dance halls, and every other building used as a place of public resort or amusement.

Inspection of schools

(2) It shall be the duty of the council of every city and town to provide for the inspection, at least once in every four months, in each school year, of all schools situated within the city or town and the council may authorize other persons in addition to the local assistant to exercise some or all of the powers conferred by Sections 16 and 17 upon the Fire Marshal.

Duty of inspector of schools

(3) It shall be the duty of every inspector of schools for every inspectorial division to visit and inspect at least twice in each school year every school within his inspectorial division outside the limits of any city or town and the council of every municipality may authorize other persons in addition to the local assistant to exercise some or all of the powers conferred by Sections 16 and 17 upon the Fire Marshal.

Power to correct fire hazard

(4) Every council, every local assistant, every inspector of schools and every person authorized by the council to exercise any of the powers referred to in this Section,

shall report to the Fire Marshal if any fire hazard exists in or about any building or premises. R.S., c. 171, s. 19.

Evacuation

20 (1) When, in the opinion of the Fire Marshal, any fire emergency or any hazard of fire or explosion exists in or about any building, premises, place or area, which may cause injury or damage to persons or property, the Fire Marshal may order orally or in writing that no person other than a person authorized by the Fire Marshal shall be permitted or be present in or upon the building, premises, place or area designated in the order until the Fire Marshal otherwise orders.

Action to be taken

(2) Where an order has been made under subsection (1), the Fire Marshal may take whatever action is reasonable in the circumstances to remove or eliminate the fire emergency or the hazard of fire or explosion.

Powers of local assistant

(3) Every local assistant may, within the city, town, municipality or district for which he is local assistant, exercise like powers to those conferred by this Section upon the Fire Marshal. R.S., c. 171, s. 20.

Appeal from local assistant

21 (1) Where an order is made by a local assistant under the provisions of this Act, the owner or occupier of a building or premises affected by the order may, within ten days after receiving the order, appeal therefrom to the Fire Marshal.

Notice of appeal

(2) Notice of the appeal may be served by leaving the same at the Office of the Fire Marshal or by sending the same by prepaid registered letter addressed to the Fire Marshal at Halifax.

Investigation by Fire Marshal

(3) The Fire Marshal shall promptly investigate or cause to be investigated every appeal under this Section, and affirm, modify or revoke the order appealed from, and, in writing, communicate his decision and the reasons therefor to the owner or occupier and the person who made the order. R.S., c. 171, s. 21.

Appeal from Fire Marshal

22 (1) Where an owner or occupier of a building or premises affected by an order of the Fire Marshal made under Section 16 or by a decision of the Fire Marshal made under Section 21 is dissatisfied with the order or decision, the owner or occupier may within five days of the service upon him of a copy of the order or decision, apply by petition to the judge of the county court, within whose jurisdiction the property lies, to review the same.

Commencement of appeal

(2) The party appealing shall file the petition with the clerk of the court, and shall, within five days of the filing or within such extended time as the judge may allow, file

with the clerk a bond in an amount to be fixed by the judge, in no case less than one hundred dollars, with at least two sufficient sureties to be approved by the judge, conditioned to pay all the costs on the appeal in case he fails to sustain the same, or such costs as may be awarded against him.

Power of judge

(3) The judge shall hear and determine the matter of the appeal and shall make such order as to him seems just and his decision shall be conclusive and shall not be subject to any appeal. R.S., c. 171, s. 22.

Offence and penalty

23 (1) Every person who

(a) hinders or obstructs the Fire Marshal or a local assistant in the execution of his duties;

(b) refuses or neglects to attend or be sworn or give evidence before the Fire Marshal or other proper officer, when summoned so to do; or

(c) violates any of the provisions of this Act or any regulation made hereunder, for which violation no other penalty is provided,

shall be liable to a penalty not exceeding one thousand dollars and in default of payment to imprisonment for a period not exceeding six months and each day that such failure continues shall constitute a separate offence. R.S., c. 171, s. 23.

Failure to comply with order

24 Any owner or occupier of the buildings or premises or any other person who fails to comply with an order of the Fire Marshal or a local assistant made under the authority of this Act, shall be liable to a penalty not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months and each day that such failure continues shall constitute a separate offence. R.S., c. 171, s. 24.

Disposition of penalty

25 Except as otherwise provided in this Act, all penalties collected under this Act shall be paid to the Minister of Finance for the use of the Province. R.S., c. 171, s. 25.

By-law or ordinance

26 Nothing provided for by by-laws or ordinances of the city, town or municipality respecting fires shall render it obligatory for the Fire Marshal to perform in any city, town or municipality duties other than the investigation of fires. R.S., c. 171, s. 26.

Fire insurance business tax

27 (1) For the purpose of this Act and other purposes related to fire prevention, every company, whether upon the stock or mutual plan, transacting the business of fire insurance within the Province, and every person, group of persons, firm, company or corporation being a party to or entering or exchanging any reciprocal contract or contracts of indemnity or inter-insurance with others through the same attorney, shall pay to the Minister of Finance annually, in addition to taxes and fees now required by

law to be paid by such company, such fee as the Governor in Council from time to time determines.

Calculation of tax

(2) Such fee shall be paid on receipts and assessments, less return premiums and cancellations, reckoned on the business as reported to the Minister of Consumer Affairs during the preceding year. R.S., c. 171, s. 27.

Approval of building plan

28 (1) Every architect, designer or owner shall, prior to the commencement of construction of a building or renovations to an existing building, submit the building plans and specifications to the Office of the Fire Marshal for plan examination and approval.

Exception to subsection (1)

(2) The plans for one or two family dwelling units and private automobile garages do not require approval by the Office of the Fire Marshal.

Scale of plan

(3) All plans shall be on an acceptable scale of not less than one-eighth inch to the foot. R.S., c. 171, s. 28.

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Appendix 2
Reference Material

National Building Code. National Research Council of Canada.

National Fire Code. National Research Council of Canada.

Fire Prevention Act Review, Final Report. Fire Prevention Advisory Council, Nova Scotia Department of Labour; August, 1997.

Fire Prevention Act Review, Report on Remaining Issues. Fire Prevention Advisory Council, Nova Scotia Department of Labour, March 1998.

APPENDIX 3:
Enabling Resolution

RESOLUTION NO. 420 (April 11, 2001)

HON. DAVID MORSE: Mr. Speaker, I hereby give notice that on a future day I shall move the adoption of the following resolution, be it resolved that:

(a) this House declare that a Select Committee on Fire Safety be established;

(b) this House declare that the select committee be chaired by and be composed of such members as the striking committee shall determine;

(c) the mandate of the select committee is to

(i) review proposed changes to the Fire Prevention Act, as reflected by Bill No. 58, entitled an Act to Promote and Encourage Fire Safety, which was introduced in this House on June 6, 2000, and relevant reports of the Fire Prevention Advisory Council,

(ii) seek input from municipalities, local fire departments and others who are involved in addressing or who are affected by fire safety concerns, and

(iii) make recommendations respecting an Act to Promote and Encourage Fire Safety to ensure that Nova Scotians are protected by effective fire prevention laws;

(d) if this House is not sitting when an interim or final report is completed by the select committee, the select committee shall table the report with the Clerk of the House;

[(e) the House declares, pursuant to Section 36 of the House of Assembly Act, that the select committee is not dissolved by prorogation of the House and the select committee is authorized to continue its inquiry after the House is prorogued;

(f) all the powers and privileges of the House of Assembly Act applicable to committees apply and are in full force and effect during the sittings of the select committee; and

(g) the House requests the Legislature Internal Economy Board, on behalf of the select committee, to employ such members and staff as may be necessary to enable the select committee to carry out its duties and to provide the select committee, its members and staff, with such facilities and funds as are required to carry out its functions as provided for by Section 80 of the Public Service Act.]

Appendix 4
Thumbnail Summaries of Presentations to Committee

Sydney

Joseph Legge, Cape Breton Burn Society

- Municipalities should reinstate Learn Not to Burn program in schools, or the province should provide expert training in promoting fire prevention.

Wade Oliver, Reserve Mines Fire Department

- Demands for their time are already hard on volunteer firefighters, and making them comply with NFPA 1500 standards could reduce their numbers.

Brent Denny, Sydney River Fire Chief and Chair, Nova Scotia Fire Services Occupational Health and Safety Committee

- Mr. Denny clarified that the set of standards proposed in Bill 58 is the National Fire Code of Canada, not the NFPA 1500. The former deals with fire safety in buildings and other property, the latter deals with firefighters and firefighting equipment. Professional firefighters are already regulated by the NFPA 1500 under the Occupational Health and Safety Act, but it doesn't apply to volunteers. Mr. Denny heads a committee of fire chiefs that is recommending the NFPA 1500 standards apply to voluntary firefighters. However Fire Marshal Robert Cormier stated at subsequent hearings that the NFPA 1500 standards would be used only as guidelines, to be strived for but not necessarily followed if a community can't afford them. Any such change would involve the Occupational Health and Safety Act, not Bill 58.

Jack Neary, Operations Manager, Cape Breton Regional Municipality

- The schoolteachers are still running the Learn Not to Burn program.

Port Hawkesbury

Ian MacKinnon, Strait Area Mutual Aid Association

- NFPA 1500 standards require all firefighters to have Level 1 training; this would be too costly and time-consuming for volunteers.

Bob MacEachern, Inverness Fire Fighters Association

- Standards for equipment should not be set too high, or volunteer departments will start losing people.

- Fire inspectors are needed.

Stellarton

Ross Tugwell, Linacy Fire Chief and Vice-President, Pictou County Firefighters Association

- He made no specific recommendations, but elicited information from Fire Marshal Cormier on several aspects of Bill 58.

George Bedford, Pictou Fire Chief

- There should never be regulations preventing activities such as firefighters riding on the backs of trucks.
- Fire officials should be protected from being sued over decisions made in performing their duties. Chief Bedford said Clause 47 of Bill 58 appears to address this, but he isn't sure.

Salmon River

Mannie Withrow, Building Inspector, Colchester Municipality

- Bill 58, as drafted, undermines the role building inspectors perform by giving their authority to deputy fire marshals, fire chiefs and fire inspectors. This will create unnecessary duplication, overlaps in responsibility and confusion in administration of the building code. Mr. Withrow referred to Clause 13.4 as giving the fire marshal authority currently held by building inspectors.
- The 1995 Building Code is currently adopted as Nova Scotia's Fire Code, and it contains many sections pertaining to fire protection that the Fire Code does not.
- Building inspectors are able to do the same job description as the fire marshal in terms of design and construction of any new building, but they don't investigate fires.

Gary MacIsaac, Chief Administrative Officer, Colchester Municipality

- Bill 58 goes too far and unnecessarily involves the fire marshal in program delivery at the local level.
- If the municipality is responsible for delivering a service, then the Fire Marshal's office should be removed from the delivery function.
- The fire marshal, deputy fire marshal, fire inspector and local building inspector all would have a responsibility for inspection. This would inevitably lead to a difference in interpretation.
- The province should provide leadership, advice, training and certification of municipal fire inspectors, comparable to the relationship with municipal building inspectors.
- The regulations should be made public before the bill goes into second reading.
- Fire-safety inspections would be a property service rather than a people service, although it could be argued either way.

Springhill

Tom Bremner, Amherst Fire Chief and 1st Vice-President, Fire Officers Association of Nova Scotia

- Bill 58 should be passed quickly, preferably in the fall session.
- No confusion is likely over conflicts over building inspectors and fire inspectors. Common sense is a large factor.

Sackville

Gordon Smith, retired fire-fighter, deputy fire marshal and chief training officer for N.S.

- Clause 13 (1), which says the fire marshal "may" issue "recommendations' on fire suppression, prevention and training should be reworded to "shall" issue "requirements."
- The province should set a minimum standard of fire-department response. If a fire department can't meet the standard, Building-Code requirements should be increased and possibly require greater use of non-combustible materials, firewalls and sprinkler systems.
- The Municipal Government Act, Part X, Clause 295, should be amended to require all municipalities to provide fire emergency services.
- Fire departments in growing areas cannot provide sufficient fire protection.
- A standard should be developed to make automatic sprinkler systems attractive to householders.

Elizabeth Publicover, woodlot owner

- Clause 3 (w) should define "land" as to type of land – agricultural, commercial, industrial, wood, etc.
- Clause 17 makes no provision for educating owners so they know how to avoid committing an offence.
- Could fire inspectors, not knowing the ecological value of fallen trees, order them removed as fire hazards? The Department of Natural Resources should educate fire inspectors on woodland.
- Where would the boundary be between the jurisdiction of the Department of Natural Resources end and that of the municipal fire inspector begin? (Fire Marshal Cormier replied that the division is not always clear, particularly in what is called the wildlands interface, where homes and other structures are built inside wooded areas, but it is not the intent to have fire inspectors checking Natural Resources territory.

Sandra Vidito, Deputy Chief, Halifax Regional Fire and Emergency Service

- The Halifax service supports the bill in principle, but some issues need clarification.
- Regulations should be available in advance.

- Volunteer firefighters could carry out the inspection function.
- Increased responsibilities under the new legislation will require the hiring of one new fire inspector. It is a download.

Jack Leedham, Executive Officer, Nova Scotia Building Officials Association

- The legislation does not provide a clear, workable administrative framework under the Building Code and the Fire Code.
- The Building Code already covers fire safety in the design and construction of buildings.
- When an order under the Fire Code deals with a Building Code matter, why should two advisory boards hear appeals?

- The association makes four recommendations:
  1. Enact the Fire Safety Act adopting the Fire Code as the Nova Scotia Fire Code.
  2. Remove all references to the Building Code and the Building Code Act from the Fire Safety Act.
  3. The Fire Safety Act should not enable the Office of the Fire Marshal to amend or establish Building Code Regulations. If it is the intent of clauses 18 (1) and (2), and 51 (1) to regulate only provincially owned properties, it should be clear and state it.
  4. The act should state that, when a fire inspector's order that a building be changed requires new construction or installation of fire equipment regulated under the Building Code, the administration and enforcement of that order must be regulated under the Building Code Act, with input from the fire inspector.

- People lack appreciation of the scope of the Building Code. All fire and life-safety provisions are contained in it.

Gerard Donahue, Building Inspector, Halifax Regional Municipality

- A building inspector's job covers the gamut of fire and life-safety provisions. The Fire Safety Act, particularly Clauses 13(4) and 51, take away the ability of building inspectors to do their jobs.

David Barrett, Secretary and Woodlands Manager, Barrett Lumber Co.

- Halifax Regional Municipality is growing and needs rules, but in rural Nova Scotia there should be some balance.
- This country would fall apart without volunteer firefighters. Part of this law should be the right to volunteer.

Laurie Walker, Atlantic Alarm & Sound

- The committee should look at the possibility of setting a standard for fire-alarm inspections and for service technicians who work on fire-alarm systems.

Bridgewater

Craig Rafuse, Chairman of Fire District #4, Chester Basin

- One of the most necessary changes is to put fire inspections in the hands of local municipalities.
- The extra costs to municipalities should be cost-shared 50-50 between the province and the municipalities.

John Craig, President, Fire Officers Association of Nova Scotia

- Bill 58 should be introduced and passed as quickly as possible.
- There could be additional costs to municipalities, but that is something the Union of Nova Scotia Municipalities and the government can work out themselves.

Gary Mailman, Hebbville Fire Chief

- Bill 58 should be passed in its current form without further undue delay.
- The current act is outdated. It doesn't give local fire personnel the power to properly secure, investigate and secure evidence at fire scenes, and it doesn't allow fire chiefs to delegate investigation powers to other members. Departments need a method of recouping costs incurred at fire scenes.
- There has been ample time for everyone to make their views known. The time for debate has passed.

Pierre Breau, Director of Engineering and Public Works, Lunenburg Municipality

- Two clauses are of concern regarding costs to municipal taxpayers:
  1. Clause 13 (7) doesn't specify how much the fire marshal will charge to contract services.
  2. In Clause 18 (1), the fire marshal no longer approves plans, just reviews them. It is unknown what level of free plan reviews, if any, municipal building inspectors can expect. Responsibility for approval will then rest with the municipal inspectors both for the Building Code, as it is today, and for the National Fire Code.
- Municipalities are concerned about where they are going to find the money for this. It comes after equalization discussions and after assessments are out. Are we going to have that one-year moratorium?
- If the province wants to make it work, it will have to put some money on the table.

Yarmouth

Ken Kelly, Yarmouth Fire Chief; President, Canadian Association of Fire Chiefs; Past Chairman, Nova Scotia Fire Prevention Advisory Council

- The work has already been done and the majority of stakeholders were satisfied. The bill is not perfect but is far better than anything in the past. The government should make this bill law as soon as possible.
- The bill is compatible with acts elsewhere in Canada. We will be on a par with Quebec, Ontario and British Columbia.
- If there is a problem with the act, it can be amended. To hold it up because of a disagreement between building inspectors and fire officers is kind of trivial.
- Some important parts of the bill -- The authority passed to fire chiefs and the delegation of their authority enhances the operation of the fire service. Stiffer penalties will make people follow codes more stringently. Training is more properly allocated. The recovery of some expenses by municipal units for investigations is positive.

Robert Amirault, Deputy Warden, Municipality of Argyle

- The problem with building inspectors is that they will be thrust into fire inspection without proper training.
- Bill 58 is a step in the right direction. It is high time it got passed in the House.
- No added cost to local municipal council expected.

Harold Richardson, Yarmouth fire-fighter

- Building inspectors should not be fire inspectors because your training blinds you.
- To not pass this act would be a disgrace to volunteer firefighters.

New Minas

Russ Mackintosh, speaking as Annapolis Royal Fire Chief

- The act is long overdue and it is needed.
- Hopefully, the federal, provincial and municipal governments will understand that they are going to have to provide the fire service the money it will require to train its people or buy equipment.

Russ Mackintosh, Speaking as President of the Western Nova Scotia Firefighters' Association

- Firefighters were very dismayed when the legislation died on the order paper. A delay in enacting this revised legislation is hampering fire safety in this province. "To respond to alarms, to evacuate the occupants and then search for those who

are missing in buildings that have not been properly and regularly inspected adds to the risks we face."

- No new expenses should be inflicted on the fire service to pay for the additional burdens in any new legislation without allotting committed dollars to pay for them.

Fred Fox, Windsor Fire Chief, speaking for West Hants County Fire Chiefs

- The chiefs fully endorse Bill 58 in its present form. This process has taken too long and the citizens and firefighters are being unduly endangered.
- Some municipal units perceive Bill 58 as municipal downloading, but this is clearly not the case because there are, in fact, fewer municipal responsibilities under the new act.
- Front-line firefighters continue to see first-hand the problems created when there is no regular system of fire inspections.
- The government should immediately state very clearly that the requirements in our current Fire Prevention Act are to be fulfilled by the municipalities throughout the province.

Bill Butler, Director of Community Development Services, Municipality of Kings County

- The act should be adopted expeditiously.
- The Provincial Fire Marshal's Office at no cost to these municipal units has carried out fire inspections within most municipalities.
- The Select Committee should ensure that the option of having the Fire Marshal's Office contract with municipalities to provide fire inspection service is maintained. This could be spelled out in legislation or provided for in some other fashion, such as a memorandum of understanding.

Doug MacLean, Lawrencetown Fire Chief and President of Annapolis County Fire Services

- The fire service was dumbfounded when the legislation was allowed to die on the order paper. The message from Annapolis County Fire Services is: please pass the act promptly and without change.
- Firefighters are at risk every day the legislation is delayed. Buildings that need inspections are not receiving proper and timely inspection. Our firefighters are entering them in response to emergency situations.
- Our ability to have true authority to deal with situations when they are found is hindered by lack of effective, up-to-date legislation.

Russell Mackintosh Jr., Annapolis County and the Nova Scotia Building Officials Association

- A who's-in-charge situation arises between the Building Code and the Fire Code. It is imperative to prevent needless bureaucratic duplication.

- Section 19 (b) requires the municipality to appoint a fire inspector to carry out inspections, duplicating the same responsibilities of a local assistant to the fire marshal under Section 14 (s).
- Should the legislation enable the fire marshal or his assistant to enforce compliance with the Building Code, which is already a municipal responsibility?
- Why does design and construction of Part 3 major occupancy buildings require approval of the province, a responsibility legislated to the municipality? The Fire Marshal's Office is understaffed, and the provincial review is often completed long after the building permit has been issued.
- Does an applicant build or alter to the Building Code or to the fire marshal's order, which may be in conflict with each other?
- Building inspectors are trained in the Building Code and all but two municipalities have a building inspector. Why, then, duplicate responsibilities, creating conflicts and confusion?
- It would be important to work out the differences of opinion prior to passing the legislation.

Legislative Committee Rooms, Oct. 17
(Special Session with Building Advisory Committee)

Robert McLaren, Member, Nova Scotia Building Advisory Committee

- The review by the select committee provides a unique opportunity to align the Building Code and the Fire Code so there is a clearly delineated line of responsibility under each.
- Two primary issues should be addressed prior to adopting the Fire Safety Act:
  1. The policy issue, of which level of government – provincial or municipal— should administer building regulations.
  2. The issue of apparent duplicate legislation and authorities.
- The Canadian Commission writes both codes on Building and Fire Codes, and both codes must be considered in building design, construction and maintenance. The two codes are developed as complementary and co-ordinated documents to reduce conflicts to a minimum.
- The intent of the Building Code is to establish minimum construction standards, including for fire safety. The Fire Code, on the other hand, deals with buildings in use.
- The Building Advisory Committee made five recommendations regarding Bill 58 in September 2000:
  1. The province should adopt the National Fire Code.
  2. Municipalities should administer and enforce the Fire Code, similar to the existing framework for the Building Code. Mr. McLaren also said the appeal process for fire inspections should be through the Building Advisory Committee rather than the Utilities and Review Board. This would eliminate duplication, as Fire Code issues invariably involve Building Code issues and a building permit, issued by a building inspector, would be required before repairs could be made.
  3. The Building Code and Fire Code should apply to all buildings, regardless of ownership, licensing status and other circumstances.

4. Changes to the Fire Code should be reflected in the Building Code.
5. The minister should consider the creation of a working committee at the deputy minister's level, to ensure successful implementation of the Building and Fire codes. It should include representatives from the Fire Prevention Advisory Council.

- The Building Advisory Committee also recommends creation of a standing committee of deputy ministers to develop and oversee policy for codes in the province.
- All issues of construction, repair and alteration of buildings should remain with the Building Code; issues of use of existing buildings and maintenance of fire-safety systems should rest with the Fire Safety Act. If not, conflicting authorities and differences of opinion arise.

Legislative Committee Rooms, Oct. 23

Tom Silver, Fire Prevention Officer, Halifax Regional Fire and Emergency Services

- Bill 58 makes a strong document (the Halifax by-law) even stronger and, from a provincial view, it is long overdue.

Written Submissions
(Several of the written, e-mail and telephone messages dealt with personal issues and are not repeated here)

Chris McNeill, regional clerk, Queens Municipality

- Mr. McNeill cited several sections that he felt give too much power to the fire marshal or commit volunteer firefighters to issuing orders beyond their training. He said the legislation is essentially downloading more responsibilities on the municipalities and volunteer fire departments, and key pieces to the puzzle missing.

Construction Association of Nova Scotia

- Noting that Section 53 deals with the Electrical Installation and Inspection Act, the association recommended that Nova Scotia adopt a two-tiered licensing system for contractors.

Ian R. Glasgow, Municipal Clerk and C/A/O, Municipality of East Hants

- The municipality simply does not have the resources available to effectively deliver fire inspection services.
- Of particular concern is the uncertainty surrounding how much work the inspections will involve.

George H. Sutherland, General Counsel, Michelin North America (Canada) Inc.

- Mr. Sutherland suggested several changes to clarify that only material alterations or repairs require a submission of plans, to balance the powers of fire officials with the legal rights of owners.

Ted Gates, Municipal Building Inspector, Lunenburg/Mahone Bay

- The legislation undermines the role of building inspectors.
- The bill doesn't specify a minimum level of qualification for fire inspectors.
- There seems to be duplication in the number of fire officials who can perform inspections.
- Fees for the cost of the municipality providing inspection service have to be established.

C. Robin Campbell, Town Clerk, Trenton

- Transferring responsibility for inspections is a download of service costs.
- The minister can change regulations at a whim.
- Small municipalities don't have the resources, either in trained personnel or finances, to adequately perform these inspection responsibilities.

Dan Watters, Councillor, District 11 (New Minas)

- Volunteer fire departments should be able to set a five-year fire rate, rather than only a one-year rate.

Philip Publicover, Fire Chief, District #1 Fire Department, Blandford

- If this government gets nothing else done in this session, let it be this act.

Richard Dauphinee, Warden, West Hants

- We do not object to the act. Our main concern is the time the review has taken.
- Continuous predictions of when the act would become effective make it impossible to plan and budget for the service.
- We want a concise outline of what the municipal units are responsible for and what the province is responsible for.

Anthony Weagle, Brookfield, Queens Co.

- Deep-fat fryers should be banned.

Graham P. Murphy, Treasurer, Windsor Fire Department

- Mr. Murphy made several suggestions regarding financing of fire departments, an area not covered by Bill 58.

D.W.J. Forgeron, Vice-President, Atlantic Region, Insurance Bureau of Canada

- The bureau supports the bill but has concerns with sections requiring insurance companies to file reports to the fire marshal and would oppose any increases in taxes or fees as a result of the act.

STATEMENT OF SUBMISSION

All of which is respectfully submitted to the
House of Assembly this 23rd day of January, 2002

Jon Carey, MLA
Chairman

I concur

Muriel Baillie, MLA

I concur

Ron Chisholm, MLA

I concur

Kerry Morash, MLA

I concur

Cecil O'Donnell, MLA

I concur

Frank Corbett, MLA

I concur

Graham Steele, MLA

I concur

Russell MacKinnon, MLA

I concur

Brian Boudreau, MLA